TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1899.

No. 614. 258.

AC M. MASON, AUDITOR OF THE CITY OF ST. LOUIS, MISSOURI, PLAINTIFF IN ERROR,

vs.

E STATE OF MISSOURI *EX REL.* JAMES McCAFFERY, AWRENCE D. KINGSLAND, AND GEORGE J. KOBUSH, ELATORS.

ERROR TO THE SUPREME COURT OF THE STATE OF MISSOURI.

FILED APRIL 23, 1900.

(17,728.)

(17,728.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1899.

No. 614.

ISAAC M. MASON, AUDITOR OF THE CITY OF ST. LOUIS, MISSOURI, PLAINTIFF IN ERROR,

vs.

THE STATE OF MISSOURI *EX REL.* JAMES McCAFFERY, LAWRENCE D. KINGSLAND, AND GEORGE J. KOBUSH, RELATORS.

IN ERROR TO THE SUPREME COURT OF THE STATE OF MISSOURI.

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JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., MAY 8, 1900.

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1 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judges of the supreme court of the State of Missouri, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said supreme court, before you, at the October term, 1899, thereof, between The State of Missouri *ex rel.* James McCaffery, Laurence D. Kingsland, and George J. Kobush, relators, and Isaac M. Mason, auditor of the city of St. Louis, Missouri, defendant, a manifest error hath happened, to the great damage of the said Isaac M. Mason, as by his complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, D. C., *on the* not exceeding thirty days from and after the date of the citation herein, in the said Supreme Court, to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 31st day of March, in the year of our Lord nineteen hundred.

Issued at office, in the city of Jefferson, with the seal of the circuit court of the United States for the western district of Missouri, central division, dated as aforesaid.

{Seal of the United States Circuit Court for the Western District of Missouri, Central Division.}

H. C. GEISBERG,
Clerk Circuit Court United States, Western District of Missouri, Central Division.

Allowed by—
JAMES B. GANTT,
Chief Justice.

1¼ [Endorsed:] No. —. United States circuit court, western district of Missouri, central division. State of Mo. *ex rel.* James McCaffery *et al.*, rel., *vs.* Isaac M. Mason, defendant. Writ of error. Filed Mar. 31, 1900. Jno. R. Green, clerk.

Return to Writ

UNITED STATES OF AMERICA, *Western District of Missouri*, } *ss:*

In obedience to the command of the within writ, I herewith transmit to the Supreme Court of the United States a duly certified tran-

script of the record and proceedings in the within-entitled case, together with all things concerning the same.

Seal of the Supreme Court of Missouri.

In witness whereof I hereto subscribe my name and affix the seal of said supreme court, at the city of Jefferson, this 18th day of April, 1900.

JNO. R. GREEN, *Clerk.*

2 The United States of America to James McCaffery, Laurence D. Kingsland, and George J. Kobush, Greeting:

You are hereby cited and admonished to be and appear in the Supreme Court of the United States, at Washington, D. C., not exceeding thirty days from and after the day this citation bears date, pursuant to a writ of error filed in the clerk's office of the supreme court of Missouri, wherein Isaac M. Mason, auditor of the city of St. Louis, Missouri, is plaintiff in error and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable James B. Gantt, chief justice of the supreme court of Missouri, this 31st day of March, in the year of our Lord nineteen hundred.

JAMES B. GANTT,
Chief Justice.

2½ [Endorsed:] Supreme court of Missouri. State of Missouri *ex rel.* James Caffery *et al.*, rel., *vs.* Isaac M. Mason, defendant. Citation. Filed Mar. 31, 1900. Jno. R. Green, clerk.

UNITED STATES OF AMERICA, } *ss:*
Central Division of the Western District of Missouri, }

I hereby acknowledge due service of the within citation this 2nd day of April, A. D. 1900.

WM. J. STONE,
Attorney for Defendant in Error.

3 In the Supreme Court of the United States, October Term, 1899.

ISAAC M. MASON, Auditor of the City of St. Louis, Missouri, Plaintiff in Error,
vs.
THE STATE OF MISSOURI *ex Rel.* JAMES McCaffery, Lawrence D. Kingsland, and George J. Kobush, Defendants in Error.

Error to the Supreme Court of the State of Missouri.

Assignment of Errors and Prayer for Reversal.

Now comes Isaac M. Mason, plaintiff in error in the above-entitled cause, and prays the court to reverse the judgment rendered by the honorable the supreme court of the State of Missouri in the cause

lately pending in said last-named court, wherein The State of Missouri *ex rel.* James McCaffery, Lawrence D. Kingsland, and George J. Kobush were relators and the said plaintiff in error, Isaac M. Mason, auditor of the city of St. Louis, Missouri, was respondent, on account of the many and manifest errors committed by said court to the prejudice of the plaintiff in error, as will appear by an inspection of the record thereof, and especially for the following reasons, which are hereby set out as the

Assignment of Errors.

I.

The act of the General Assembly of the State of Missouri, entitled "An act to provide for the registration of voters in cities now having or which may hereafter have 300,000 inhabitants or more; to provide for the creation of a board of election commissioners,
4 provide for its appointment, and define its duties; to govern elections in such cities, defining offenses, and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein, and to repeal all acts and parts of acts in conflict or inconsistent herewith," approved June 19th, 1899, is in conflict with the 1st section of the 14th amendment to the Constitution of the United States, in that it abridges the privileges and immunities of citizens of the United States, and denies to citizens of the United States within the jurisdiction of and citizens of the State of Missouri of the equal protection of the laws.

II.

Said act of June 19th, 1899, denies to citizens of the United States who are inhabitants and citizens of the city of St. Louis, and within the jurisdiction of the State of Missouri, the equal protection of the laws.

III.

The decision of the supreme court of the State of Missouri in the above-entited case, in sustaining said act of June 19th, 1899, as a valid and constitutional enactment, is a denial to the citizens of St. Louis and of this plaintiff in error, who are within the jurisdiction of the State of Missouri, of the equal protection of the laws and of their privileges and immunities as citizens of the United States.

5

IV.

The said supreme court of the State of Missouri erred in refusing to hold that the bill No. 760, which passed the senate of Missouri by a call of yeas and nays, as required by the constitution of the State of Missouri, was a different bill from that which passed the house of representatives, and erred in refusing to hold that the bill signed by the president of the said senate, according to the senate journal, was a different bill from that which passed the house, to wit, a bill under the following title, to wit: "An act to provide for the regis-

tration of voters in cities now having or which hereafter may have 300,000 inhabitants or more; to create the office of election commissioner, provide for his appointment, and define his duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein."

V.

The court erred in holding that in the absence of a protest pointing out in what particulars the constitution of the State of Missouri was violated during the passage of the bill, it would be presumed that the legislature was not remiss in its duties in that regard, although the journals may have failed affirmatively to record the performance of such duty; and further erred in commenting on the protest which was filed to the act as a local and not a general act, as if the members of the senate who filed this protest, having based it on this ground alone, were precluded, or this respondent was precluded, from making the points urged in said court against the law, in the face of the fact that the members of the senate had no opportunity to protest against the signing of a bill under the
6 title of the bill passed by the house, and in face of the fact that it appears affirmatively by the senate journal that the only title ever read or heard of in the senate was the title as hereinbefore set forth.

VI.

The court erred in not holding that the senate, having no notice of the change in title of the bill, the members of the senate could not protest against the signature thereof by its president on the ground that the title had been changed or was other than that which, according to its own journal, the bill appears to have.

VII.

The court erred in holding that section 31 of article IV of the constitution of the State of Missouri, providing for taking the count on the final passage of a bill by yeas and nays, was mandatory, and then holding that the journal of the senate showed that the bill which was passed in accordance with that provision of the constitution when it was affirmatively shown by the senate journal that the bill passed by the senate was different from that passed by the house.

VIII.

The court erred in holding that the title to the bill is an immaterial part of an act, under the constitution of the State of Missouri, and that the fact that the title of the bill as passed by the house was entirely different from the title of the bill that was passed by the senate and signed by the president of the senate, as affirmatively shown by the journals of both houses, was not contrary to the constitution of the State of Missouri.

IX.

The court erred in refusing to hold that section 9 of article VIII of the constitution of the State of Missouri prescribed the methods under which registration laws could be passed in the State of Missouri as being mandatory, and directing the only method by which said registration laws could be passed.

7

X.

The court erred in refusing to hold that the limitations of section 5 of article VIII of the constitution of the State of Missouri limited the legislature to passing the general act for the registration of voters in all cities having over 100,000 inhabitants.

XI.

The court erred in refusing to hold that section 5 of article VIII of the constitution of the State of Missouri created a constitutional classification in cities and counties for registration purposes—1st, into cities and counties of over 100,000 population, without regard to the maximum limit in which cities and counties there must be registration; 2nd, cities of over 25,000 and under 100,000 population, in which there may be registration, and, 3rd, the rest of the State, in which there shall be no registration—and that said section was a mandatory rule controlling the action of the legislature and requiring it to pass general laws on the subject of registration applicable to all cities in the State containing over 100,000 inhabitants.

XII.

The court erred in refusing to hold that article VIII, section 5, of the constitution of the State of Missouri was an affirmative enactment of a new rule, which implied a negative of whatever was not included or is different, and that by the language used therein the thing was limited to be done in a particular form or manner and included a negative that it should not be done otherwise.

XIII.

The court erred in refusing to hold that in construing section 5 of article VIII of the constitution of the State of Missouri that when the constitution defines the circumstances under which a right may be exercised or penalty imposed the specification

8 is an implied prohibition against legislative interference to add to the condition or to extend the penalty to other cases.

XIV.

The court erred in holding that in the face of section 5 of article VIII of the constitution of Missouri the legislature could make special laws for registration purposes applicable to the city of St. Louis, having 300,000 or more inhabitants, alone.

XV.

The court erred in not holding that the "Nesbit bill," which the court held to be constitutional, expressly repealed the act of May 31st, 1895, and left all cities under 300,000 inhabitants in the State of Missouri without any registration act whatever, in the face of the mandatory requirements of section 5 of article VIII of the said constitution.

XVI.

The court erred in holding that the "Nesbit bill" repealed the act of May 31, 1895, so far as regards cities covered by said "Nesbit bill," and having more than 300,000 inhabitants, leaving the act of May 31, 1895, in force as to cities having 100,000 inhabitants or more, up to 300,000 inhabitants, thereby creating a different rule of registration as to some of the cities in the State of Missouri having over 100,000 from the rule of registration prescribed for the city of St. Louis.

XVII.

The court erred in not holding that if the act of May 31st, 1895, was repealed, then the Nesbit law, leaving no law in force as to cities between 100,000 and 300,000, was unconstitutional.

XVIII.

The court erred in holding that the act of May 31st, 1895, was repealed so far as concerns the "Nesbit" act, thereby holding that said act of May 31st, 1895, as amended by the Cardwell act,
9 applies to cities of over 100,000 and up to 300,000 inhabitants, in face of the fact that this ruling is contrary to the first section of the 14th amendment to the Constitution of the United States, plead in the returns of the respondent and urged by his counsel in their brief and on oral argument, and again presented to the court on a motion for rehearing herein, for the reason that by section 9 *by* the act of May 31st, 1895, judges and clerks of election are to be appointed by a board of election commissioners and reported to the circuit court of the State for confirmation, with the right to any interested citizen to file objection to such judges and clerks, which objections were to be heard and determined by the court on a day fixed for that purpose, whereas by section 8 of the Nesbit act the board of election commissioners are empowered to appoint four judges of election and two clerks without any supervisions whatever and with no right to the citizens of St. Louis to object thereto or to be heard thereon before any court or judicial body; and, further, that section 31 of the act of May 31st, 1895, makes provision for any voter whose name is refused registration or who is stricken from the registration list to apply to the circuit court for reinstatement or registration, which application is to be heard summarily and determined by the court, and if found qualified the name is placed upon the registry list, and if refused the applicant is given the right of appeal to the supreme court or the

court of appeals of the State, whereas under the Nesbit act, by section 21, the board of election commissioners are made the board of appeal to hear applications for reinstatement and registration, and no appeal whatever to the courts is provided, and every citizen of St. Louis is denied his day in court; all of which is contrary to the said 14th amendment to the Constitution of the United States; and, further, that other differences between the said Nesbit act and the act of May 31st, 1895, apparent upon comparison of the two acts, which show that the citizens of cities and counties of
10 the State of Missouri having 300,000 or more inhabitants are denied equal protection by the laws provided for cities having 100,000 up to 300,000, and their privileges and immunities as citizens of the United States are abridged, notwithstanding the provision of section 5 of article VIII of the constitution of Missouri, providing for the registration in cities and counties having a population of over 100,000, and notwithstanding section 3 of article IV of the constitution of Missouri, providing that in all other cases where general laws can be made applicable no local or special law shall be enacted, and whether the general law could have been made applicable in any case is declared to be a judicial question, and as such shall be judicially determined without regard to any legislative assertion on that subject.

XIX.

The court erred in holding that in the passage of the Nesbit bill through the two houses of the General Assembly of the State of Missouri sections 25, 26, 27, 29, 32, and 38 of article IV of the constitution of the State of Missouri had not been violated and in holding that said sections are not mandatory.

XX.

The court erred in holding that the said act of June 19th, 1899, was not in violation of section 5 of article VIII of the constitution of Missouri.

XXI.

The court erred in holding that said act of June 19th, 1899, was not in violation of sections 16 and 53 of article IX of the constitution of Missouri.

XXII.

The court erred in holding the said act of June 19th, 1899, to be a constitutional law under section 5 of article VIII and section 53 of article IX of the constitution of Missouri.

XXIII.

The act of June 19th, 1899, is in violation of the foregoing cited provisions of the constitution of Missouri and of the Consti-
11 tution of the United States.

XXIV.

The court erred in overruling a motion for rehearing filed by plaintiff in error, which should have been sustained for the reasons in said motion for rehearing set out.

All of which is respectfully submitted.

B. SCHNURMACHER,
City Counsellor.
GEO. D. REYNOLDS,
NOBLE AND SHIELDS,
MORTON JOURDAN,
Attorneys for Plaintiff in Error.

11½ [Endorsed:] Isaac M. Mason, auditor of the city of St. Louis, Missouri, plaintiff in error, *vs.* The State of Missouri *ex rel.* James McCaffery *et al.*, defendants in error. Prayer for reversal and assignment of errors. Filed Mar. 31, 1900. Jno. R. Green, clerk. Ben. Schnurmacher, city counselor; Geo. D. Reynolds, Noble & Shields, and Morton Jourdan, for plaintiff in error.

12 STATE OF MISSOURI, *set:*

In the Supreme Court of Missouri.

Be it remembered that heretofore, to wit, on the 5th day of January, 1900, there was filed in the clerk's office of the supreme court of the State of Missouri a petition for mandamus, wherein The State of Missouri at the relation of James McCaffery, Lawrence D. Kingsland, and George J. Kobusch were relators, and Isaac M. Mason, auditor of the city of St. Louis, was respondent, which said petition is in words and figures as follows, to wit:

STATE OF MISSOURI, *ss:*

In the Supreme Court, January Sitting, 1900.

STATE OF MISSOURI *ex Rel.* JAMES MCCAFFERY, Lawrence D. Kingsland, and George J. Kobusch, Plaintiffs, *vs.* ISAAC M. MASON, Defendant.	Petition for Mandamus.

Now comes the State of Missouri on the relation of James McCaffery, Lawrence D. Kingsland and George J. Kobusch, and states that said relators are now and for more than five years have been resident citizens of the State of Missouri, and of the city of St. Louis in said State; and further states that the defendant, Isaac M. Mason, is also a resident citizen of the said city of St. Louis, and that he is now, and ever since the 20th day of August, 1899, has been, the auditor of the said city of St. Louis, duly elected, qualified and acting as such.

For a cause of action herein, against the said defendant, the plaintiff states that the said James McCaffery, Lawrence D. Kings-

land and George J. Kobusch, the relators herein, are election commissioners in and for the said city of St. Louis, severally appointed as such by the governor of the State of Missouri under the authority conferred upon him by an act of the General Assembly of said State, entitled "An act to provide for the registration of voters in cities now having or which hereafter may have three hundred thousand inhabitants or more; to provide for the creation of a board of election commissioners, to provide for its appointment and define its duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and election therein, and to repeal all acts and parts of acts in conflict or inconsistent herewith," approved June 19th, 1899; that said named relators were so appointed election commissioners by the governor as aforesaid on the — day of August, 1899, for a term of four years therefrom, subject to the advice and consent of the senate of said State when the same shall be again in session, said appointments having been made during the vacation of the senate; that said relators severally accepted said appointments, and afterwards on the — day of August, 1899, duly qualified as such election commissioners according to the law in such cases made and provided, and that said relators do now constitute, and ever since the 21st day of August, 1899, have constituted, the board of election commissioners for the said city of St. Louis; and as such it is their right and duty to do and per-
13 form all the things required by said mentioned act to be done and performed by said board of election commissioners, and to exercise all the rights, powers and privileges conferred upon the election commissioners by the provisions of said act.

The plaintiff states that the said relators, McCaffery, Kingsland and Kobusch, as said election commissioners, are now, and ever since the 21st day of August have been, in the possession of the office, records, files and property set apart for, used by, and belonging to the said board of election commissioners in said city of St. Louis, and that they are now, and ever since the date last above named have been exercising the powers and performing the duties of such election commissioners in accordance with the statutes of this State in such cases made and provided. Plaintiff states that said election commissioners, after taking possession of their said offices on the 21st day of August, 1899, as aforesaid, and while acting as said board of election commissioners, duly appointed according to law one C. L. Hoblitzelle as deputy election commissioner, and to be *ex officio* the secretary of the said board of election commissioners; and also afterwards at different times, during the months of August and September, 1899, appointed and employed E. J. Watson, Wm. Adams, M. Buechler, Charles Conrad, C. C. Dixon, J. F. Doerbaum, George Gunsollis, M. J. Keneficke and J. H. Stussel as clerks, or clerical assistants, in the office of said election commissioners; the same being necessary to the prompt and correct performance of the duties incident to said board of election commissioners, and that said deputy election commissioners and said clerks immediately after their several appointments duly qualified as such according

to the requirements of the statute in such cases made and provided, and entered upon the duties of their respective offices.

Plaintiff further states that said election commissioners, acting as said board of election commissioners, after entering upon their offices as aforesaid, to wit: during the months of August and September, 1899, purchased certain necessary supplies for the use of said board of election commissioners, to wit: stationery, stamps, registration records, office records, towels, brooms and mops, and also incurred certain necessary incidental expenses for keys and repairs of locks, clock rental and storage of election booths and tables; that all said expenditures were necessary to the proper and efficient conduct of the office of said commissioners, and that all said expenditures were made by said election commissioners under the authority conferred upon them by the statute in such cases made and provided. Plaintiff states that the salaries or compensation of all said election commissioners, deputy election commissioner, and clerks or clerical assistants, and all said expenditures made by said board of election commissioners, were and are payable out of the treasury of the said city of St. Louis as is required by law; and that plaintiffs state that in accordance with the law, rules and regulations in such cases made and provided it was and is the duty of said board of election commissioners to make up and certify to the city auditor of said city of St. Louis stated monthly accounts, properly itemized, of the pay-rolls and other expenses of said board of election commissioners; and upon the same being so certified to the said city auditor it became, was, and is the duty of said auditor to audit said accounts in due form of law, and to issue his proper warrants for the payment thereof to the person or persons entitled thereto, so that the same may be lawfully paid out of the treasury of the said city; for plaintiff states that the salaries of said commissioners and the expenditures made by them, and the compensation due the appointees and employés of said commissioners, cannot be lawfully paid out of the said treasury until said auditor shall first audit said accounts and draw his warrants for the payment thereof.

14 Plaintiff further states that on the 29th day of September, 1899, the said board of election commissioners, in due form of law, and in accordance with the rules and regulations applicable to such cases, duly certified to the defendant herein, as the city auditor of the said city of St. Louis, three certain itemized statements or accounts to be audited by him as follows, to wit:

First. A statement or account showing separately the several sums due the commissioners, deputy commissioner and clerks or clerical assistants from said city of St. Louis for salaries or compensation due them as provided by law for services rendered by them during the month of August, 1899, amounting in the aggregate to $555.21;

Second. A statement or account showing separately the several amounts due to said commissioners, deputy commissioner and the clerks or clerical assistants of said board of election commissioners from the said city of St. Louis for the salaries or compensation due

them respectively for the month of September, 1899, amounting in the aggregate to $1,297.65;

Third. An itemized statement or account of the expenditures made by the said board of election commissioners during the months of August and September, 1899, for the use of said board, being the stationery, records, etc., hereinabove set forth, amounting in the aggregate to $1,718.71, which certified account was accompanied by the proper vouchers in each instance.

Plaintiff files herewith copies of said three statements or accounts marked as Exhibit- "A," "B" and "C."

Plaintiff states that all said named statements or accounts were duly presented to said defendant, as auditor aforesaid, on or about the first day of October, 1899; and plaintiff states that upon receiving said accounts or statements it then became and was the duty of the defendant, as said auditor, to forthwith proceed to examine and audit the said accounts and to draw his warrants therefor as aforesaid; for plaintiff says that at all the dates aforesaid there was, and now is, sufficient money in the treasury of the said city of St. Louis appropriated and set apart for the payment of the salaries of said election commissioners, deputy commissioner, and clerks or clerical assistants, and the expenses of said board, as stated and set forth in said three certified accounts. But plaintiff states that notwithstanding the premises the defendant arbitrarily and unlawfully refused to audit said accounts, or either of them or any part thereof, and still refuses to audit the same or any part thereof, or to issue or cause to be issued, any warrant whatsoever for the payment of said certified accounts, or either of them, or any part thereof, and wholly fails and refuses to perform his duty in that behalf as the city auditor of the said city of St. Louis. Plaintiff states that said defendant, as auditor, has not made to said election commissioners, or to any one, any objection to the form or sufficiency of any of said accounts so certified to him as aforesaid, but has informed the said commissioners in writing that he refuses to audit the said accounts, or any of them, on the advice of the city counsellor of the said city of St. Louis, and for no other reason. Plaintiff states that the salaries or compensation of said election commissioners, deputy commissioner, and clerks or clerical assistants of said board of election commissioners, together with the incidental expenses of said board, for the months of October and November, 1899, are also all past due and unpaid; but that said election commissioners have not certified the accounts for the same to the defendant for the reason that the defendant has declared to and informed the said commissioners that he will not audit any accounts for, or draw his warrants to pay any salaries or compensation due said election officers, or for any expenses incurred by said board of election commissioners in the conduct of their office.

15 Plaintiff states that by reason and on account of said arbitrary and unlawful action of the defendant, as auditor aforesaid, the said election commissioners, deputy commissioner, and clerks or clerical assistants have been performing their public duties since the 21st day of August, 1899, without receiving any pay

whatever for their services, and that the necessary expenses of said board of election commissioners in procuring necessary stationery, records, etc., for the proper and correct conduct of their said office remain wholly unpaid; that by reason of the premises and of the declared intention of the defendant to continue to refuse to audit future accounts of every kind which may be certified to him by said board of election commissioners the relators herein, it is made impossible for said election commissioners to efficiently and properly perform their duties and carry on and conduct their said offices; that the said unlawful conduct of the defendant is demoralizing the working force in said office, and is greatly embarrassing said election commissioners in the performance of their duties, greatly to the public detriment.

Plaintiff states that it is highly important and necessary that said election commissioners should forthwith make preparation for the registration of voters in said city, and to make such registration, and also to make all necessary provisions for holding the elections to be held in said city during the year 1900; that in the performance of this public work imposed upon them by law, it is necessary for said election commissioners to appoint judges and clerks of election, and other election officials as required by law, and to procure the necessary stationery, books, records, etc., for the proper and lawful conduct of said elections; but plaintiff says that the said election commissioners cannot properly and efficiently perform their said duties because of the said unlawful action, and threatened action, of said defendant, as auditor, in refusing to allow said election commissioners to use the public moneys appropriated and set apart for their use as aforesaid.

In view of the whole premises the plaintiff comes now and prays this honorable court to issue its writ of mandamus commanding the said defendant, as city auditor of the said city of St. Louis, to proceed forthwith to examine and audit the said three itemized accounts certified to said defendant by said board of election commissioners on the 29th day of September, 1899, as hereinbefore set forth, and to issue warrants as required by law for the payment of said accounts, or to show cause to this court why he should not do so, and the plaintiff prays the court for all such further and additional orders and judgments against said defendant as may be necessary and proper, and that the defendant be adjudged to pay the costs of this proceeding.

EDWARD C. CROW,
Attorney General.

WM. J. STONE, *Of Counsel.*

STATE OF MISSOURI, }
City of St. Louis. }

L. D. Kingsland, being duly sworn, on oath states that the matters and facts stated and set forth in the foregoing petition are true.

LAWRENCE D. KINGSLAND.

Sworn to and subscribed before the undersigned, a notary public in and for the said city of St. Louis, this 3rd day of January, 1900.
My commission as notary expires on the 31st day of May, 1903.
Witness my hand and seal this 3rd day of January, 1900.
[SEAL.] M. LOUISE HOOVER,
Notary Public.

16 *Election and Registration.*

The city of St. Louis to the following persons, debtor for services rendered in the office of board of election commissioners during month ending August 31st, 1899:

Name.	Occupation.	Period.	Rate.	Amount.	We, the undersigned, acknowledge to have received from the treasurer of the city of St. Louis the sums herein specified opposite our respective names.
James McCaffery...	Chairman.....	12 days...	$208 33	$80 64	
L. D. Kingsland....	Commissioner...	12 " ...	208 33	80 64	
G. J. Kobusch.....	" ...	12 " ...	208 33	80 64	
C. L. Hoblitzelle....	Secretary	8 " ...	166 66	43 01	
C. L. Hoblitzelle....	Assistant.....	4 2-7 ds...	4 00	21 14	1 2-7 day overtime.
E. J. Watson.....	"	6 2-7 ds ..	4 00	25 14	2 2-7 days overtime.
Wm. Adams.....	"	4 days ...	4 00	16 00	
M. Buechler.....	"	10 " ...	4 00	40 00	
Chas. Conrad	"	4 " ...	4 00	16 00	
C. C. Dixon.....	"	4 " ...	4 00	16 00	
J. F. Doerbaum.....	"	4 " ...	4 00	16 00	
Geo. Gunsollus.....	"	10 " ...	4 00	40 00	
M. J. Kenefieke.....	"	10 " ...	4 00	40 00	
J. H. Stussel.....	"	10 " ...	4 00	40 00	
				$555 21	

ST. LOUIS, *September 29th*, 1899.

I hereby certify, that the above account, amounting to five hundred and fifty-five and $\frac{21}{100}$ dollars, is correct and necessary.
Approved by order of the board, September 29th, 1899.
JAMES McCAFFERY, *Chairman.*

Attest: C. L. HOBLITZELLE, *Secretary.*

Election and Registration.

The city of St. Louis to the following persons, debtor for services rendered in the office of board of election commissioners during month ending September 30th, 1899:

Name.	Occupation.	Period.	Rate.	Amount.	We, the undersigned, acknowledge to have received from the treasurer of the city of St. Louis the sums herein specified opposite our respective names.
James McCaffery...	Chairman.....	1 mo.....	$208 33	$208 33	
L. D. Kingsland....	Commissioner...	1 "	208 33	208 33	
G. J. Kobusch.....	" ...	1 "	208 33	208 33	
C. L. Hoblitzelle....	Secretary.....	1 "	166 66	166 66	
M. Buechler.....	Assistant.....	26 days...	4 00	104 00	
Geo. Gunsollus.....	"	26 " ...	4 00	104 00	
M. J. Kenefieke.....	"	26 " ...	4 00	104 00	
J. H. Stussel.....	"	26 " ...	4 00	104 00	
				$1,207 65	

ST. LOUIS, *September 29th*, 1899.

I hereby certify, that the above account, amounting to twelve hundred and seven and $\frac{65}{100}$ dollars, is correct and necessary.

Approved, by order of the board, September 29th, 1899.

JAMES McCAFFERY, *Chairman.*

Attest: C. L. HOBLITZELLE, *Secretary.*

17 *Supplies.*

Woodward & Tiernan, stationery and stamps	$61.53
Bell Telephone Co., telephone service	37.50
A. A. Selkirk & Co, storage on election booths and tables	372.18
Western Union Telegraph Co., clock rental	2.00
B. Kloecker, keys, repairing locks	6.75
M. Dougherty, mops and brooms	3.00
St. Louis Toilet Supply Co., towels, etc	5.00
Con. P. Curran Printing Co., registration records	582.50
Con. P. Curran Printing Co., stationery and records	646.25

And on the same day an alternative writ was ordered, directed to said respondent, said rule to be returnable on the 9th day of January, 1900; which said alternative writ is in words and figures as follows, to wit:

In the Supreme Court of Missouri, October Term, 1899, Court in Banc.

STATE OF MISSOURI *ex Rel.* JAMES McCAFFERY, LAWRENCE D. Kingsland, and George J. Kobusch, Plaintiffs,

vs.

ISAAC M. MASON, Defendant.

The State of Missouri to Isaac M. Mason, auditor of the city of St. Louis, Greeting:

Whereas, it has been represented to our supreme court by petition of James McCaffery, Lawrence D. Kingsland and George J. Kobusch, that said relators are now and for more than five years have been resident citizens of the State of Missouri, and of the city of St. Louis in said State; and further states that the defendant, Isaac M. Mason, is also a resident citizen of the said city of St. Louis, and that he is now, and ever since the 20th day of August, 1899, has been, the auditor of the said city of St. Louis, duly elected, qualified and acting as such.

That the said James McCaffery, Lawrence D. Kingsland and George J. Kobusch, the relators herein, are election commissioners in and for the said city of St. Louis, severally appointed as such by the governor of the State of Missouri under the authority conferred upon him by an act of the General Assembly of said State, entitled "An act to provide for the registration of voters in cities now having or which may hereafter have three hundred thousand inhabitants

or more; to provide for the creation of a board of election commissioners, provide for its appointment and define its duties; to
18 govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and election therein, and to repeal all acts and parts of acts in conflict or inconsistent herewith," approved June 19th, 1899; that said named relators were so appointed election commissioners by the governor as aforesaid on the — day of August, 1899, for a term of four years therefrom, subject to the advice and consent of the senate of said State, when the same shall be again in session, said appointments having been made during the vacation of the senate; that said relators severally accepted said appointments, and afterwards, on the — day of August, 1899, duly qualified as such election commissioners according to the law in such cases made and provided, and that said relators do now constitute, and ever since the 21st day of August, 1899, have constituted the board of election commissioners in and for the said city of St. Louis; and as such it is their right and duty to do and perform all the things required by said mentioned act to be done and performed by said board of election commissioners, and to exercise all the rights, powers and privileges conferred upon the election commissioners by the provisions of said act; that the relators, McCaffery, Kingsland and Kobusch, as said election commissioners, are now, and ever since the 21st day of August have been, in possession of the office, records, files and property set apart for, used by, and belonging to the said board of election commissioners in said city of St. Louis, and that they are now, and ever since the date last above named have been, exercising the powers and performing the duties of such election commissioners in accordance with the statutes of this State in such cases made and provided. That said election commissioners, after taking possession of their said offices on the 21st day of August, 1899, as aforesaid, and while acting as said board of election commissioners, duly appointed according to law, one C. L. Hoblitzelle as deputy election commissioner, and to be *ex officio* the secretary of the said board of election commissioners; and also afterwards at different times, during the months of August and September, 1899, appointed and employed E. J. Watson, Wm. Adams, M. Buechler, Charles Conrad, C. C. Dixon, J. F. Doerbaum, George Gunsollis, M. J. Kennefieke and J. H. Stussel as clerks, or clerical assistants in the office of said election commissioners; the same being necessary to the prompt and correct performance of the duties incident to said board of election commissioners, and that said deputy election commissioner and said clerks immediately after their several appointments duly qualified as such according to the requirements of the statute in such cases made and provided, and entered upon the duties of their respective offices.

That said election commissioners, acting as said board of election commissioners, after entering upon their offices as aforesaid, to wit: during the months of August and September, 1899, purchased certain necessary supplies for the use of said board of election commissioners, to wit: stationery, stamps, registration records, office

records, towels, brooms and mops, and also incurred certain necessary incidental office expenses for keys and repairs of locks, clock rental and storage of election booths and tables; that all said expenses were necessary to the proper and efficient conduct of the office of said commissioners, and that all said expenditures were made by said election commissioners under the authority conferred upon them by the statute in such cases made and provided.

19 That the salaries or compensation of all of said election commissioners, and clerks or clerical assistants, and all said expenditures made by said board of election commissioners, were and are payable out of the treasury of the said city of St. Louis, as is required by law; and in accordance with the law, rules and regulations in such cases made and provided, it was and is the duty of said board of election commissioners to make up and certify to the city auditor of said city of St. Louis stated monthly accounts, properly itemized, of the pay-rolls and other expenses of said board of election commissioners; and upon the same being so certified to the said city auditor it became, was, and is the duty of said auditor to audit said accounts in due form of law and to issue his proper warrants for the payment thereof to the person or persons entitled thereto, so that the same may be lawfully paid out of the treasury of said city; that the salaries of said commissioners and the expenditures made by them, and the compensation due the appointees and employés of said commissioners, cannot be lawfully paid out of the said treasury until said auditor shall first audit said accounts and draw his warrants for the payment thereof.

That on the 29th day of September, 1899, the said board of election commissioners, in due form of law, and in accordance with the rules and regulations applicable to such cases, duly certified to the defendant herein, as the city auditor of the said city of St. Louis, three certain itemized statements or accounts to be audited by him as follows, to wit:

First. A statement or account showing separately the several sums due commissioners, deputy commissioner, and clerks or clerical assistants from said city of St. Louis for salaries or compensation due them as provided by law for services rendered by them during the month of August, 1899, amounting in the aggregate to $555.21;

Second. A statement or account showing separately the several amounts due to said commissioners, deputy commissioner, and the clerks or clerical assistants of said board of election commissioners from said city of St. Louis for salaries or compensation due them, respectively, for the month of September, 1899, amounting in the aggregate to $1,297.65;

Third. An itemized statement of accounts of the expenditures made said board of election commissioners during the months of August and September, 1899, for the use of said board, being for the stationery, records, etc., hereinabove set forth, amounting in the aggregate to $1,718.71, which certified account was accompanied by the proper vouchers in each instance.

20 That all said named statements or accounts were duly presented to said defendant, as auditor aforesaid, on or about

the first day of October, 1899; that upon receiving said accounts or statements, it then became and was the duty of the defendant, as said auditor to forthwith proceed to examine and audit the said accounts and to draw his warrants therefor as aforesaid; that at all the dates aforesaid there was, and now is, sufficient money in the treasury of the said city of St. Louis appropriated and set apart for the payment of the salaries of said election commissioners, deputy commissioners and clerks or clearical assistants, and the expenses of said board, as stated and set forth in said three certified accounts. That notwithstanding the premises the defendant arbitrarily and unlawfully refused to audit said accounts, or either of them, or any part thereof, and still refuses to audit the same or any part thereof, or to issue or cause to be issued, any warrant whatsoever for the payment of said certified accounts, or either of them, or any part thereof, and wholly fails and refuses to perform his duty in that behalf as the city auditor of the said city of St. Louis. That said defendant, as auditor, has not made to said election commissioners, or to any one, any objection to the form or sufficiency of any of said accounts so certified to him as aforesaid, but has informed the said commissioners in writing that he refuses to audit the said accounts, or any of them, on the advice of the city counsellor of the said city of St. Louis, and for no other reason; that the salaries or compensation of said election commissioners, deputy commissioners, and clerks or clerical assistants of said board of election commissioners, together with the incidental expenses of said board, for the months of October and November, 1899, are also all past due and unpaid; but that said election commissioners have not certified the accounts for the same to the defendant for the reason that the defendant has declared to and informed the said commissioners that he will not audit any accounts for, or draw his warrants to pay any salaries or compensation due said election officers, or for any expenses incurred by said board of election commissioners in the conduct of their office.

That by reason and on account of said arbitrary and unlawful action of the defendant, as auditor aforesaid, the said election commissioners, deputy commissioners, and clerks or clerical assistants have been performing their public duties since the 21st day of August, 1899, without receiving any pay whatever for their services, and that the necessary expenses of said board of election commissioners in procuring necessary stationery, records, etc., for the proper and correct conduct of their said office remain wholly unpaid; that by reason of the premises and of the declared intention of the defendant to continue to refuse to audit future accounts of every kind which may be certified to him by said board of election commissioners, the relators herein, it is made impossible for said election commissioners to efficiently and properly perform their duties and carry on and conduct their said offices; that the said unlawful conduct of the defendant is demoralizing the working force in said office, and is greatly embarrassing said election commissioners in the performance of their duties, greatly to the public detriment.

That it is highly important and necessary that said election com-

missioners should forthwith make preparation for the registration of voters in said city, and to make such registration, and also to make all necessary provisions for holding the elections to be held in said city during the year 1900; that in the performance of this public work imposed upon them by law, it is necessary for said election commissioners to appoint judges and clerks of election and other election officials as required by law, and to procure the
21 necessary stationery, books, records, etc., for the proper and lawful conduct of said elections; that the said election commissioners cannot properly and efficiently perform their said duties because of the said unlawful action, and threatened action, of said defendant, as auditor, in refusing to allow said election commissioners to use the public moneys appropriated and set apart for their use as aforesaid.

Now therefore, we being willing that full and speedy justice be done in the premises, do command you, the said Isaac M. Mason, auditor of the city of St. Louis, to forthwith examine and audit the said three itemized accounts certified to said defendant by said board of election commissioners on the 29th day of September, 1899, as aforesaid, and to issue warrants as required by law for the payment of said accounts; or that you appear and show cause before our honorable supreme court in banc, on Tuesday, January 9, 1900, why you should not do so.

In testimony whereof, I have hereunto set my hand as chief justice of the supreme court of the State of Missouri. Done at the city of Jefferson, this 5th day of January, 1900.

[SEAL.] JAMES B. GANTT,
Chief Justice of the Supreme Court of the State of Missouri.

Attest: JOHN R. GREEN, *Clerk.*

And afterwards, to wit, on the 8th day of January, 1900, the following proceedings were had in said cause, viz:

STATE *ex Rel.* JAS. MCCAFFERY ET AL., Rel.,
vs.
I. M. MASON, Resp.

Comes now the said respondent, by attorney, and files his return to the alternative writ of mandamus issued herein; and, upon motion, the said rel-tor is granted 5 days in which to plead to said return, and that this cause be set for hearing on February 6, 1900.

Which said return is in words and figures as follows, to wit:

STATE OF MISSOURI, *ss:*

In the Supreme Court, October Term, 1899.

STATE OF MISSOURI *ex Rel.* JAMES MCCAFFERY, L. D. KINGSLAND, and Geo. J. Kobusch, Plaintiffs,
vs.
ISAAC M. MASON, Defendant.

Return of Defendant to Alternative Writ.

Now comes Isaac M. Mason, defendant in the above-entitled cause, and for return to the alternative writ issued therein, says:

He admits that the relators are now, and for more than five years last past have been, resident citizens of the State of Missouri, and of the city of St. Louis in said State, and that the said defendant is also a resident citizen of said city of St. Louis, and that he now is, and ever since the 20th of August, 1899, and some time before that has been, the auditor of the said city of St. Louis, duly elected, qualified and acting as such.

He admits and avers that the relators' sole claim to be and to compose the board of election commissioners for the city of St. Louis, and to have warrants drawn by him as auditor against the city of St. Louis, and to have their claims for salaries and office
22 expenses, audited by him as auditor of said city, is under and by virtue of the pretended act of the General Assembly of this State, set out by relators and entitled "An act to provide for the registration of voters in cities now having or which hereafter may have 300,000 inhabitants or more; to provide for the creation of a board of election commissioners, to provide for its appointment and define its duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein, and to repeal all acts or parts of acts in conflict or inconsistent herewith;" that said act purports to have been approved June 19th, 1899, and he avers that it is the same pretended act printed on pages 179 and following the session acts of the 40th General Assembly of this State, for 1899, under the title, "House bill No. 760, elections: in cities of 300,000 inhabitants or more."

He denies that relators are entitled to have the claims set out by them, or any of them, audited by him as auditor of the said city, or to have warrants drawn thereon. He avers that the above-cited pretended act is the sole authority under which relators can or do claim to hold the office of members of the board of election commissioners of the city of St. Louis, and he avers that said pretended act is null and void, and unconstitutional, and is not, and never was, enacted, and is not, and never became, a valid law of the State of Missouri.

And defendant avers that at the regular session of the aforesaid 40th General Assembly of the State of Missouri, a member of the house of representatives, to wit, James P. Nesbitt, on March 3, 1899, said house then being in session, introduced a bill entitled "An act

to provide for the registration of voters in cities now having or which hereafter may have 300,000 inhabitants or more; to create the office of election commissioner, provide for his appointment and define his duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein." That said bill was numbered house bill No. 760. It will hereafter, for brevity, be referred to as "house bill No. 760," or "the Nesbitt bill."

That among other provisions contained in said Nesbitt bill, as originally introduced, it was provided that the governor, by and with the advice and consent of the senate, should appoint for each city now having or which may hereafter have 300,000 inhabitants or more, one election commissioner and no more, who should hold his office for the term of four years, and until his successor was commissioned and qualified. That said commissioner should make all necessary rules and regulations not inconsistent with the act, with reference to the registration of voters, and conduct of elections, and should have sole charge of and make provision for all elections, general and special, local, municipal, State and county, and of all others of every description, to be held in such city or any part thereof at any time. He was authorized to divide the city into election precincts, and was directed and empowered to select and choose three (3) electors as judges, and two (2) clerks of election for each precinct, one of said judges and one of said clerks of election to belong and to be a member of the party of opposite politics to said election commissioner; said judges and clerks also to act as registration and canvassing officers in their respective precincts.

23 It was further provided that two justices of the peace of such city, of opposite politics, to be designated and selected by the election commissioner, and said election commissioner, should constitute a board of appeals to hear applications and appeals to be placed on the registry of voters of persons who had applied for registration and been rejected by the precinct registers, and who may also register qualified persons applying therefor. Said board of appeals was also constituted the board of canvassers to open and canvass the returns of elections. No clause or section of said bill purported to repeal any other laws or acts save as such acts should be in conflict with the provisions of said bill.

A copy of said Nesbitt bill, being house bill No. 760 aforesaid, as originally introduced, was printed under authority of the said house of representatives, and is herewith filed, and marked Exhibit "A," and prayed to be considered, examined and referred to as a part of this return as fully as if set out at length herein.

Defendant states that said bill No. 760 was read in the house of representatives the first time on March 7th, and referred to the committee on elections, March 7th, 1899, reported from said committee with recommendation that it do pass with accompanying amendments, March 24th, 1899, but that the "accompanying amendments" proposed by the said committee were never agreed to nor acted upon when said bill No. 760 was taken up for engrossment on

April 15, 1899. That on said last-named date, a motion was offered by a member of the house, as follows: "Amend house bill No. 760 by striking out all of said bill after the enacting clause and inserting the following in lieu thereof." That the so-called amendment then offered was in fact a substitute for the whole of the Nesbitt bill, leaving only the title and the enacting clause of the original Nesbitt bill, and was an entire change of the original purpose and object of said Nesbitt bill. That among other provisions of the proposed amendment, the governor was authorized, within thirty days after the act becomes a law, by and with the advice and consent of the senate, to appoint for each of said cities to which the law was to apply, a board of election commissioners to be composed of three (3) members, who should hold their office for the term of four years, and until their successors were commissioned and qualified; one of said commissioners to be a member of and belong to the leading party politically opposed to that to which the governor belongs. Said board to have charge of registrations and elections in cities to which the act was to apply, to divide the city into voting precincts, to appoint the judges and clerks of election in the precincts, who should also be registers and canvassers in the voting precincts; act as a board of appeal and registration, and canvass the election returns. The last section of said proposed amendment also provided that "all acts and parts of acts inconsistent or in conflict with this act are hereby repealed, and the act entitled 'An act to create a board of election commissioners, etc.,' approved May 31, 1895, is hereby repealed."

In brief, the proposed amendment was an entire change of the original bill, in all of its main features and objects, a particularization of which here would unduly lengthen this return: reference is therefore made to the same, as printed in the journal of the said house of representatives at pages 1042 to 1059, both inclusive, and that part of said journal, namely pages 1042 to 1059 is prayed to be taken as a part hereof as fully as if set out at length, and an examination of said proposed amendment and comparison of the same with the original bill, will show that it was, in fact, not only a substitute for the original bill, and not a mere amendment
24 thereof, but was in fact and in effect a new bill under the title and with the enacting clause of the Nesbit- bill, and was an entire change in the original purpose of the original Nesbitt bill. Said proposed amendment as now found printed in the journal of the house as aforesaid, was not, however, in fact printed until after the adjournment of that session of the General Assembly, to wit, until after May 22, 1899, and was never printed during the session of the Fortieth General Assembly.

On April the 15th, the said so-called amendment to said bill was adopted by the house, and said house bill No. 760 was then ordered engrossed and printed by the house; but in fact was neither printed nor engrossed, as required by section 29 of article 4 of the constitution of this State.

Defendant states that afterwards, on April 20, 1899, the said house adopted said proposed amendment, and purported to pass said bill,

but as amended as aforesaid, and under the original title as aforesaid, and that afterwards, and on the same day, purported to amend the title thereto by striking out the words "to create the office of election commissioner," where the same occurs therein, and insert in lieu thereof the words "to provide for the creation of a board of election commissioners," and by striking out the word "his" where it occurs, and inserting in lieu thereof the word "its," and by adding at the end of the title the words "and to repeal all acts and parts of acts in conflict or inconsistent herewith."

Defendant further avers that it is ordained by article IV of the constitution of this State, among other things, as follows:

SECTION 25. No law shall be passed, except by bill, and no bill shall be so amended, in its passage through either house, as to change its original purpose.

SECTION 26. Bills may originate in either house, and may be amended or rejected by the other; and every bill shall be read on three different days in each house.

SECTION 27. No bill shall be considered for final passage unless the same has been reported upon by a committee, and printed for the use of the members.

SECTION 28. No bill (except * * *) shall contain more than one subject, which shall be clearly expressed in its title.

SECTION 29. All amendments adopted by either house to a bill pending or originating in the same, shall be incorporated with the bill by engrossment, and the bill thus engrossed, shall be printed for the use of the members before its final passage. The engrossing and printing shall be under the supervision of a committee, whose report to the house shall set forth, in writing, that they find the bill truly engrossed, and that the printed copy furnished to the members is correct.

SECTION 31. No bill shall become a law, unless on its final passage the vote be taken by yeas and nays, and the names of the members voting for and against the same be entered on the journal, and a majority of the members elected to each house be recorded thereon as voting in its favor.

SECTION 32. No amendment to bills by one house shall be concurred in by the other, except by a vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting for and against recorded upon the journal thereof, etc.

* * *

25 SECTION 37. No bill shall become a law until the same shall have been signed by the presiding officer of each of the two houses in open session; and before such officer shall affix his signature to any bill, he shall suspend all other business, declare that such bill will now be read, and that, if no objections be made, he will sign the same, to the end that it may become a law. The bill shall then be read at length, and if no objections be made, he shall, in the presence of the house, in open session, and before any other business is entertained, affix his signature, which fact shall be noted on the journal, and the bill immediately sent to the other house. When it reaches the other house, the presiding officer

thereof shall immediately suspend all other business, announce the reception of the bill, and the same proceedings shall thereupon be observed, in every respect as in the house in which it was first signed. * * *

Defendant avers that in the purported passage of the said house bill No. 760 through and by the house, each and all of the foregoing provisions of the constitution of this State were not only not complied with, but were violated in the following, among other particulars, to wit:

1. Said purported bill was amended in its alleged passage through the house of representatives so as to change its original purpose.

2. It was not read on three different days in each house.

3. It was considered for final passage in the house without having been reported upon by a committee, and without having been printed for the use of the members of the house.

4. It contained more than one subject, and the subject was not clearly expressed in its title.

5. The amendments adopted by the house of representatives and originating in said house, were not incorporated in the bill by engrossment, and the bill as engrossed by the house was not printed for the use of the members of the house before the final passage thereof; nor did any committee of said house set forth by report in writing that they found the bill truly engrossed, and that the printed copy furnished to the members was correct, but on the contrary, the committee on engrossed bills in the house to which was referred said bill, reported, as shown by the printed official journal of said house under date of April 20, 1899, and at page 1102, that said bill had not been truly engrossed, and that the printed copies thereof furnished to the members were not correct. Defendant further alleges that this was the only reference of this bill to any committee by the house for the purpose of engrossment and printing, and that the aforesaid report was the only report made by any committee to said house on this bill.

6. That when said pretended bill, as amended by the house, was placed upon its final passage in the house, no vote was taken by yeas and nays, nor were the names of the members voting for and against said pretended bill as it purported to have been amended entered upon the house journal, nor was it recorded thereon that a majority of the members elected to the house voted in favor thereof.

7. That the only printed copy of what purported to be said bill No. 760, as amended by the house, placed in the hands of the members of the house or of the senate for their use was that herewith filed and marked Exhibit "B," which is prayed to be taken as a part of this return as fully as if set out at length and in full.

8. That said bill was not reported upon by a committee, and was not printed for the use of the members of the house of representatives before it was considered for final passage by the said
26 house, as required by section 27 of article IV, of the constitution of this State; nor was the title of said bill, as amended by the said house of representatives, ever printed at all for the use

of the members of said house or for the use of the members of the senate and said General Assembly.

And defendant further avers that in the purported passage of house bill No. 760 through and by the house, each and every of the foregoing cited provisions of the constitution of this State were not only not complied with, but were violated.

And defendant further avers that after it was pretended and assumed that said bill had passed the house of representatives, there was transmitted to the senate, by the house, for its action and received by the senate on April 21, 1899, an alleged bill which purported to be, but was not, the bill pretended to have been passed by the house under the number and designation of house bill No. 760, and what purported to be printed copies of said house bill No. 760, as purported to have been passed by the house, were transmitted to the senate for the use of the members of the senate, being the same as Exhibit "B" before referred to, and none other, that being the only and sole document purporting to be a printed copy of said house bill No. 760 ever furnished or printed for the use of the members of the senate by any committee or officer or other person or authority prior to the alleged passage of said bill. Defendant avers that said printed document is not a true copy of the bill, as alleged to have been amended and passed by the house of representatives, and does not contain the title of the bill as amended and adopted by the house, but contains, word for word, the title of the bill as originally introduced by Mr. Nesbitt, as hereinbefore set out, and was misleading, incorrect and illegal, and not the bill No. 760, which was pretended to have been passed by the house.

Defendant further states that the bill which was received on said 21st day of April, 1899, by the senate from the house, and which purported to be the bill which had passed the house, and which was designated as house bill No. 760, reported to the senate under this title and no other, namely: "An act to provide for the registration of voters in cities now having or which hereafter may have 300,000 inhabitants or more; to create the office of election commissioner, provide for his appointment and define his duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein."

That, as appears by the entry in said journal, the officer of the house who delivered the said bill to the senate and who stated that the house asked the concurrence of the senate thereto, added, after reciting the title of the bill as aforesaid, the words, "title amended," but the defendant avers that no amendment to the title was on the bill as presented to the senate, no amendment to the title was engrossed with or on the said bill, but the engrossed copy thereof presented to the senate from the house, for the action and concurrence of the senate was the original title as last aforesaid, and not otherwise; nor did the messenger of the house show to the senate, nor did the house ever inform the senate, how or in what respect or particular the title was amended, but at all times when said bill was before the

senate for its action, as shown by its journal, and in fact, it was under the original title as aforesaid, and not otherwise.

27 That the next entry relating to said bill upon the journal of the senate is as follows, under date of April 24, 1899: "House bill No. 760 entitled, 'An act to provide for the registration of voters in cities now having or which hereafter may have 300,000 inhabitants or more; to create the office of election commissioner, provide for his appointment and define his duties, to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein,' was taken up and read the first time."

That the next entry relating to said bill is of date April 25, 1899, and appears upon the journal of the senate of that date as follows, namely: "House bill No. 760 entitled, 'An act to provide for the registration of voters in cities now having or which hereafter may have 300,000 inhabitants or more; to create the office of election commissioner, provide for his appointment and define his duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein,' was taken up, read second time and referred to committee on privileges and elections."

That the next entry relating to said bill is of date May 20, 1899, when the following entries appear upon the journal of the senate, of its proceedings of that date, namely: "Senator Haynes, from the committee on privileges and elections, submitted the following reports, which were read: (among others) 'Mr. President—Your committee on privileges and elections, to which was referred house bill No. 760, entitled, "An act to provide for the registration of voters, etc., in cities now having, or which hereafter may have, 300,000 inhabitants or more," begs leave to report that it has examined the same and recommends, by a majority vote, that it do not pass, and a majority of the committee are of the opinion, as heretofore reported, that the same cannot be considered because of the Morton resolution.'

"Respectfully submitted.

"W. H. HAYNES, *Chairman.*"

"On motion of Senator Morton, house bill No. 760, entitled, 'An act to provide for the registration of voters in cities now having or which may hereafter have 300,000 inhabitants or more; to create the office of election commissioner, provide for his appointment and define his duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein,' was taken up for third reading." * * *

(Here follows votes on points of order.)

"Senator Morton moved that the rules be suspended and house bill No. 760 be read third time and put upon its passage. * * * The question recurring upon the suspension of the rules, roll was called and the motion prevailed by the following vote."

(Here follows names of senators voting and those absent.)

"The question recurring upon the motion of Senator Morton, that house bill No. 760 be read third time and placed on its passage." (Here follows dilatory motion.) "The question recurring upon the motion to place house bill No. 760 on third reading and
28 passage. The motion prevailed. The roll was called and house bill No. 760 was passed by the following vote." (Here follows names of senators voting for and against and of absent senators.) "The president declared the bill passed. The title of the bill as amended was read and agreed to. Senator Farris moved to reconsider the vote by which the bill passed. Senator Fields moved to lay that motion on the table. The latter motion prevailed."

That the next entry relating to said bill is of date Monday, May 22, when the following entries are upon the journal of the senate, relating to said bill No. 760:

"The president announced the reception from the house of representatives enrolled house bill No. 760, 'An act to provide for the registration of voters in cities now having or which hereafter may have 300,000 inhabitants or more; to create the office of election commissioner, to provide for his appointment and define his duties, to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein.' That the same had passed both branches of the General Assembly; that all other business would be suspended and the bill read at length; that unless objection be made, he would sign the same to the end that it become a law, and directed the secretary to read the bill. The bill was read at length by the secretary." (Here follows protests.) "Whereupon the presiding officer, in the presence of the senate in open session and no other business intervening, affixed his signature thereto, and the bill was immediately returned to the house."

And this defendant avers that the above are the only material entries upon the journal of the senate relating to said bill, and he files herewith a certified copy from the secretary of state of all the entries relating to said bill as appear on the journal of the senate, which certificate is marked Exhibit "C" and prayed to be taken as a part of this return, as fully as if set out at length, and defendant avers that the above senate entries are a true, complete and correct record of all that took place in the senate in relation to said bill.

And this defendant avers that on each and every occasion, and at every time when said house bill No. 760 was read in the senate it was read under the title last aforesaid, and the title last aforesaid was the only title read in connection therewith in the senate, and at no time was any house bill read in or passed by the senate of the fortieth General Assembly of the State of Missouri, or signed by its presiding officer, under the title, "House bill No. 760, an act to provide for the registration of voters in cities now having or which hereafter may have 300,000 inhabitants or more; to provide for the creation of a board of election commissioners, provide for its appointment and define its duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe

rules and regulations governing registration and elections therein, and to repeal all acts and parts of acts in conflict or inconsistent therewith."

Wherefore, this defendant says that the purported act, under the title set out by the relators in their petition, and under the title set out in the printed copy of the session acts of the fortieth General Assembly as aforesaid, never, in fact, was before the senate for its consideration, did not receive its concurrence, was not signed by its presiding officer, and was not enacted into a law of this State.

And defendant avers that there was read in the senate as house bill 760, on three different days, an entirely different bill from that pretended to have been passed by the house, to wit, a bill
29 under the following title: "An act to provide for the registration of voters in cities now having or which hereafter may have 300,000 inhabitants or more; to create the office of election commissioner, provide for his appointment, and define his duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein," and none other, which said bill was not house bill No. 760, as pretended to have been passed by the house, nor was said bill so pretended to have been passed by the house ever before the senate, nor was the bill as purported to be passed by the house ever printed as required by the constitution for the use of the members of the senate before its passage by said senate.

And defendant avers that said bill, after its purported passage by the senate, was signed by the president of the senate, that the bill as signed by the president of the senate, was the bill as purported to be passed by the senate, and not as purported to have been passed by the house, and the bill purported to be passed by the house and signed by the speaker thereof, was not the bill signed by the president of the senate.

And defendant still further avers that in the purported passage through the senate of the pretended bill heretofore referred to, the foregoing-cited provisions of the constitution were violated in the following, among other particulars, to wit:

1. Said purported bill was not read on three different days in the senate.

2. That the same had not been printed for the use of the members of the senate before being considered for final passage.

3. That the same contained more than one subject, and that said subject was not clearly expressed in the title.

4. That the amendments adopted by the senate to the same were not incorporated therein by engrossment, nor was said pretended bill engrossed, nor was it printed for the use of the members of the senate before its final passage by the senate, nor did any committee report to the senate in writing that they found said pretended bill truly engrossed or that any printed copy thereof furnished to the members was correct.

5. That on the final passage of said pretended bill as purporting to have been amended by the senate, the vote thereon was not taken

by yeas and nays, nor were the names of members voting for or against said pretended bill entered upon the senate journal, nor was it reported upon said journal that a majority of the members elected to the senate voted in favor of said pretended bill as it purported to have been amended.

6. The purported amendment to the title purported to have been been made by the house was not reported to or before the senate, and the purported amendment to the title by the senate was not reported back to the house nor concurred in by it, and the bill signed by the presiding officer of the senate was under the original title and not under a title as amended by either the house or the senate.

And defendant avers that the foregoing-cited constitutional provisions were not only not complied with, but were violated in every other respect in the alleged passage of said bill through the senate.

30 Defendant further avers that the chief clerk of the house of representatives did not present the pretended bill purporting to have been passed by the house in person to the governor on the same day on which it was signed, and enter the fact upon the journal of the house, as required by section 38 of said article IV of the constitution.

Wherefore defendant avers that by reason of non-compliance with and violation of the hereinbefore-cited provisions of the constitution of this State, said pretended house bill No. 760 was never lawfully passed, and is of no force, effect or validity as a law.

Notwithstanding said facts and the illegality of all the steps and proceedings attending its pretended passage through the house of representatives and senate as aforesaid, defendant is informed and believes and states on information and belief that said pretended house bill No. 760 purports to be enrolled and what purports to be a true copy of the enrolled bill and purporting to have been approved by the governor June 19, 1899, is printed and published and issued by the secretary of state as an act of the General Assembly of this State, under the following title, to wit:

"H. B. 760. Elections: In cities of 300,000 inhabitants or more. An act to provide for the registration of voters in cities now having or which hereafter may have 300,000 inhabitants or more; to provide for the creation of a board of election commissioners, provide for its appointment, and define its duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein, and to repeal all acts and parts of acts in conflict or inconsistent herewith."

Defendant avers that no bill, law or act under the title last aforesaid or with the provisions in said pretended act contained, or of the tenor and effect of said pretended act, ever passed either or both houses of the General Assembly of this State or was ever enacted into law.

Defendant further avers that by sections 53 and 54 of said article VI of the constitution of this State, it is ordained as follows:

"SECTION 53. The General Assembly shall not pass any local or special law: * * *

Regulating the affairs of counties, cities, townships, wards or school districts;

For the opening and conducting of elections, or fixing or changing the places of voting;

Creating offices, or prescribing the powers and duties of officers in counties, cities, townships, election or school districts;

In all other cases where a general law can be made applicable, no local or special law shall be enacted; and whether a general law could have been made applicable in any case, is hereby declared a judicial question, and as such shall be judicially determined without regard to any legislative assertion on that subject. * * *

SECTION 54. No local or special law shall be passed unless notice of the intention to apply therefor shall have been published (etc. * * *) and the notice shall be recited in the act according to its tenor."

And by sections 2, 5, 8, 10 and 12 of article VIII of the same constitution, it is ordained as follows:

SECTION 2. Every male citizen of the United States, and every male person of foreign birth, who may have declared his intention to become a citizen of the United States according to law, not less than one year nor more than five years before he offers to
31 vote, who is over the age of 21 years, possessing the following qualifications, shall be entitled to vote at all elections by the people:

First. He shall have resided in the State one year immediately preceding the election at which he offers to vote.

Second. He shall have resided in the county, city or town where he shall offer to vote, at least 60 days immediately preceding the election.

SECTION 5. The General Assembly shall provide by law for the registration of all voters in cities and counties having a population of more than 100,000 inhabitants, and may provide for such registration in cities having a population exceeding 25,000 inhabitants and not exceeding 100,000, but not otherwise.

SECTION 8. No person while kept at any poor-house, or asylum at public expense, nor while confined in any public prison shall be entitled to vote at any election under the laws of this State.

SECTION 10. The General Assembly may enact excluding from the right of voting, all persons convicted of felony or other infamous crime, or misdemeanors connected with the exercise of the right of suffrage.

SECTION 12. No person shall be elected or appointed to any office in this State, civil or military, who is not a citizen of the United States, and who shall not have resided in this State one year next preceding his election or appointment.

Section 7 of article IX is as follows: "The General Assembly shall provide, by general laws for the organization and classification of cities and towns. The number of such classes shall not exceed four; and the power of each class shall be defined by gen-

eral laws, so that all such municipal corporations of the same class shall possess the same powers and be subject to the same restrictions."

And by sections 1, 10 and 12 of article X of said constitution it is ordained:

SECTION 1. The taxing power may be exercised by the General Assembly for State purposes, and counties and other municipal corporations, under authority granted to them by the General Assembly, for county and other corporate purposes.

SECTION 10. The General Assembly shall not impose taxes upon counties, cities, towns, or other municipal corporations, or upon the inhabitants or property thereof, for county, city, town, or other municipal purposes; but may, by general laws, vest in the corporate authorities thereof the power to assess and collect taxes for such purposes.

SECTION 12. No county, city * * * or other political corporation or subdivision of the State, shall be allowed to become indebted in any manner or for any purpose to the amount exceeding in any year the income and revenue provided for such year without the assent of two-thirds of the voters thereof voting at an election to be held for that purpose."

And by section one (1) of the fourteenth amendment to the Constitution of the United States, it is ordained that no State "shall deny to any person within its jurisdiction the equal protection of the laws."

Defendant alleges that said pretended house bill No. 760 aforesaid and said pretended act last above referred to violate and are in conflict with each of the above recited and quoted constitutional provisions, both of the constitution of this State and of the United States, and are null and void.

32 That said pretended act, contrary to the above-cited constitutional provisions is special legislation—is a denial of the right of self-government—is an attempt to divert and unlawfully apply public revenues, and subjects them to the demands of unauthorized persons, and diverts the revenues derived from taxation to purposes and at the will of persons other than those for which they were assessed, levied, paid and collected, and deprives the citizens of the United States residing in the city of St. Louis of their right to the equal protection of the laws, and imposes on citizens of said city unconstitutional requirements as preliminary to their right to vote and hold office and is null and void.

Defendant further states that section 5 of article VIII, of the constitution of this State is as follows: "The General Assembly shall provide by law for the registration of all voters in cities and counties haveing a population of more than 100,000 inhabitants, and may provide for such registration in cities having a population exceeding 25,000 inhabitants and not exceeding 100,000, but not otherwise."

That said pretended act of June 19, 1899, hereinbefore set forth, violates said provision of the said constitution in that it ignores the classification made by the said provision for the registration of voters in this State, and provides that "in all cities in this States now having or which hereinafter may have 300,000 inhabitants or more,

there shall be a registration of all the qualified voters, and said registration and mode of conducting the election held in such cities shall be governed and controlled as provided herein, and be subject to all the provisions of the other election laws of this State, so far as the same are not inconsistent herewith," and by section 49 attempts to repeal the act entitled, "An act to create a board of election commissioners, etc.," approved May 31, 1895.

That said pretended act not only violates and ignores the constitutional classification of cities and counties for registration purposes, but attempts to establish a different classification by providing under the guise of an attempted general law, a special and different system of registration and conducting elections in the city of St. Louis, from that provided by the constitution of the State, and different from that controlling other cities and counties in this State having a population of over 100,000 inhabitants.

That said pretended act is a special act applicable only to the city of St. Louis, and not a general law, and was not passed in accordance with the provisions of the constitution of this State as to special legislation, to wit: section 54, article IV, and is in violation of the other provisions of the constitution prohibiting special legislation and classification of cities herein set forth, and is unconstitutional and void.

Defendant further avers that under and by virtue of the 5th section of the 8th article of the constitution of this State, hereinbefore cited and quoted, the General Assembly of this State enacted a law entitled, "An act to create a board of election commissioners in cities now having or which hereafter may have over 100,000 inhabitants; to provide for the appointment of the same; to define the duties of such board; to provide for the registration of all voters in such cities; to govern elections therein, defining offenses and providing for punishment thereof; prescribing penalties for violating
33 the provisions of this act; and abolishing the office of recorder and deputy recorder of voters." That said act was duly approved by the governor of this State May 31, 1895, and took effect and was of force August 25, 1895, and will be found in the Session Acts of this State for extra session, 1895, at pages 5 to 43, inclusive.

That among other provisions of said act, it was enacted in the second section thereof, that a board of election commissioners be and is created for each city that is governed by the provisions of said act, composed of three members, who should be appointed as follows: Two of said commissioners to be appointed by the governor, one of them to be by him designated as the chairman of the board, and who shall hold his office for the term of four years, or until his successor is appointed and qualified, the other or second commissioner for the term of two years, and until his successor is appointed and qualified; the third commissioner to be appointed by the mayor of the city, the person so appointed to be a member of the leading political party opposed to that to which the chairman appointed by the governor belongs, who shall be secretary of said board, and shall hold his office for the term of four years, and until his successor is appointed by the mayor and has qualified.

That the city of St. Louis, being one of the cities of this State to which said law applies, a board of election commissioners was duly appointed under said law some time before 1899 and before the enactment of the laws hereinafter referred to as the "Cardwell act."

That the terms for which said commissioners were respectively appointed have not yet expired, nor have any successor, or successors, been appointed or qualified for or to either of them, but the defendant is advised that a majority of them have abandoned their claim to said office under said law and their appointment by virtue of it.

Defendant further states that the law above referred to is the only law of this State providing for the registration of all voters in cities and counties of this State having a population of more than one hundred thousand inhabitants; that said law is now, and since its taking effect has been, in full force and effect, and applies to said city of St. Louis, and is unrepealed and that the same has been amended by the General Assembly of the State of Missouri only in immaterial respects, until an attempted amendment by the act referred to as the Cardwell act in 1899.

That at the 40th session of the General Assembly of this State said act of May 31, 1895, was further attempted to be amended by an act entitled, "An act to amend an act entitled, 'An act to create a board of election commissioners in cities now having, or which hereafter may have, over 100,000 inhabitants; to provide for the appointment of the same; to define the duties of such board; to provide for the registration of all voters in such cities; to govern elections therein, defining offenses and providing for punishment thereof; prescribing penalties for violating the provisions of this act; and abolishing the office of recorder and deputy recorder of voters;' approved May 31, 1895, as amended by the session acts, approved March 8, 1897, and March 23, 1897, and March 26, 1897;" which act was approved June 19, 1899, Session Acts of Missouri, 1899, pages 197 to 199, inclusive, the bill for which act was numbered house bill No. 785, was introduced by Representative
34 Cardwell, has been, and will hereafter be, referred to, for brevity, as "The Cardwell act."

Said amendment changes the manner of appointment of the members of the board and of employment of clerical assistants.

Said Cardwell act last above referred to was approved by the governor June 19, 1899, and, if a valid law, was of force and effect on August 21, 1899, the 40th General Assembly having adjourned *sine die* on May 22, 1899.

That other than as hereinabove set out, no amendments have been made to the aforesaid act of May 31, 1895.

Defendant further states that no appointments to the board of election commissioners have been made for the city of St. Louis under the aforesaid Cardwell act of June 19, 1899. But defendant avers that the act of May 31, 1895, and its amendments, is the only law relating to and governing registration and elections in said city of St. Louis, and the said city of St. Louis is, and will be, liable only for salaries and expenditures of commissioners who are appointed and have qualified thereunder.

And defendant avers that the so-called Nesbitt law purports to repeal the whole of the aforesaid act of May 31, 1895, sec. 49 of the Nesbitt law being as follows: "SEC. 49. All acts or parts of acts inconsistent or in conflict with this act are hereby repealed, and the act entitled 'An act to create a board of election commissioners' etc., approved May 31, 1895, is hereby repealed."

Defendant avers that the so-called Nesbitt law and Cardwell act both purport to have passed the house and senate of the 40th General Assembly on the same day and at the same session and to have been approved on the same day, to wit, June 19, 1899, and that under the constitution of this State (there being no emergency clause to either of them) each, if valid, was of force and in effect on the same day, to wit, August 21, 1899; that the same are so inconsistent with each other that neither can take effect, and the act of May 31, 1895, and the amendments heretofore referred to as made to it prior to those undertaken to be made by the 40th General Assembly of this State, are the only laws now in force and effect in this State relative to appointment of election commissioners for cities of over 100,000 population, to which class of cities the city of St. Louis belongs.

For further return this defendant denies that any appropriation has been made for these relators, and he avers that no appropriation, available for the payment of any members of any board of election commissioners appointed under the Nesbitt bill, for the city of St. Louis, or for the payment of their office and clerical expenses, has ever been made by the municipal assembly of the city of St. Louis, and he avers that the only appropriation made is for the election commissioners appointed and provided for under the act of May 31, 1895, heretofore referred to, and the amendments made thereto prior to January 1, 1899, and for the payment of their office expenses and clerical assistants, and he denies that the re-
35 lators in this case are the successors in office of the members of the board of election commissioners of the city of St. Louis, who have been appointed under the act of May 31, 1895 and its amendments, and he denies that the appropriation made by the municipal assembly of the city of St. Louis for the payment of the salaries and office expenses and clerical assistants of the board of election commissioners of the city of St. Louis, so appointed as aforesaid under said act of 1895, is available, or subject to his warrant, as auditor of said city, for the payment of the salaries, office expenses or clerical assistants of relators claiming appointment under the pretended act and so-called Nesbitt act of June 19, 1899.

And having made full return, defendant asks to be hence discharged with his costs in this behalf expended.

ISAAC M. MASON,
As Auditor of the City of St. Louis, Defendant.

B. SCHNURMACHER,
City Counsellor, for Defendant.
GEO. D. REYNOLDS,
NOBLE & SHIELDS,
MORTON JOURDAN, *Of Counsel.*

January 17th relators filed a general denial to the return as follows:

Reply to Return.

In the Supreme Court of Missouri, October Term, 1899, in Term Time, Court en Banc.

STATE OF MISSOURI *ex Rel.* JAMES McCaffery, L. D. Kingsland, and George J. Kobusch, Relators, *vs.* ISAAC M. MASON, Respondent.	Mandamus. Relator's Reply to Respondent's Return.

Now at this day come the relators and deny each and every allegation in respondent's return, except as to the admissions and confessions of law and fact therein contained.

EDWARD C. CROW,
Attorney General,
SAM. B. JEFFRIES,
Ass't Att'y Gen.,
For Relators.

W. J. STONE, *Of Counsel.*

Leave to Take Testimony.

January 17th, 1900, ordered by Honorable James B. Gantt, chief justice in chambers, present, Hon. Samuel B. Jeffries, assistant attorney general, representing relators, and Morton Jourdan for respondent, that both relators and respondent take such testimony as desired before some notary public at such time and place as either party should desire.

36 *Evidence.*

In the Supreme Court of Missouri, en Banc, October Term, 1899.

STATE *ex Rel.* JAMES MCCAFFERY ET AL., Relators,
vs.
I. M. MASON, Auditor City of St. Louis, Respondent.

Depositions taken in the above-entitled cause before John A. Lee, notary public, at Jefferson City, Missouri, January 25, 1900, between the hours of 8 o'clock a. m. and 5 o'clock p. m., pursuant to agreement between the attorneys for the respective parties, each party waiving notice and service of notice of taking of said depositions.

Appearances: Edward C. Crow, attorney general; Sam. B. Jeffries, assistant attorney general; William J. Stone, for relators; George D. Reynolds, Morton Jourdan, for respondent.

Testimony on Behalf of Relators.

Mr. STONE: We offer certified copy of the act of the 40th General Assembly of the State of Missouri, entitled "An act to provide for

the registration of voters in cities now having, or which hereafter may have three hundred thousand inhabitants or more; to provide for the creation of a board of election commissioners, provide for its appointment, and define its duties; to govern elections in such cities, defining offenses, and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein, and to repeal all acts and parts in conflict or inconsistent herewith," the same being copy of the original roll of said act, containing also the signatures of the speaker of the house of representatives and chief clerk of the house of representatives; and the signatures of the president of the senate, and of the secretary of the senate in authentication thereof, and the certificate of Mathew Coffey, chairman of the committee on enrolled bills of the house of representatives of said General Assembly, to the effect that he had compared said bill with the engrossed copy of the original thereof, together with the house amendment to title, and found the same to be truly enrolled; also containing the signature of Lon V. Stephens, governor of the State of Missouri, approving the said bill; also a protest against the passage of house bill No. 760, signed by Charles Schweickardt, T. C. Martin, F. W. Mott, Charles F. Busche, and James M. Rollins, members of the senate of the 40th General Assembly, and sworn to before A. M. Hough, notary public; also the message of Lon V. Stephens, governor, approving said act; all of which is filed, and marked by the notary as Relators' Exhibit "1."

Mr. REYNOLDS: We object to so much of Relators' Exhibit "1" as contains what is called the protest, and the governor's certificate of approval as incompetent and irrelevant.

Mr. STONE: Relators offer in evidence ordinance No. 19835, passed by the municipal assembly of the city of St. Louis, and approved August 7, 1899, marked by the notary as Relators' Exhibit "2."

Relators close.

37 *Testimony for Respondent.*

Mr. REYNOLDS: Defendant offers paper heretofore filed with his return in this cause, and marked Defendant's Exhibit "A," being house bill No. 760, as originally introduced in the house of representatives of the 40th General Assembly, by Representative Nesbitt, and which was read first time and three hundred copies ordered printed March 3rd, 1899, which is initialed by the notary as Defendant's Exhibit "A."

Mr. STONE: To the introduction of the foregoing Exhibit "A," offered by respondent, the relators object on the ground that the same is irrelevant and immaterial.

Mr. JEFFRIES: And it is objected for the further reason that the roll of the act, as signed by the presiding officers of the two houses of the General Assembly, in open session, and approved by the governor, is conclusive that the act was legally passed, and it is beyond the jurisdiction of the court to make inquiry into the form of procedure had by the General Assembly in passing an act; and for the reason that the court has no authority to interfere or pass

upon the constitutionality of the actions of one of the co ordinate branches of the State government as recognized by the constitution, as to the manner in which constitutional provisions affecting the proceedings of legislation shall be carried out. The introduction of this exhibit is further objected to for the reason that the constitution expressly provides that each house of the General Assembly shall finally, and before the bill is signed, make inquiry in a quasi-judicial way, or otherwise, as to whether all the provisions of the constitution, mandatory or otherwise, regarding the introduction and passage of an act through the General Assembly have been complied with; and for the reason that the action of the legislature as evidenced and authenticated by the original roll of the bill, as signed by the presiding officers of both houses, and approved by the governor, is conclusive as to what actions were taken thereon.

Mr. REYNOLDS: Next we offer in evidence Defendant's Exhibit "B," heretofore filed as said Exhibit "B," with the return of respondent in this cause, being engrossed copy of house bill No. 760, as printed by order and authority of the house of representatives, April 15th, 1899, and marked by the notary as Defendant's Exhibit "B."

Mr. JEFFRIES: To the introduction of the foregoing Exhibit "B," offered by respondent, the relators object on the ground that the same is irrelevant and immaterial. And it is objected to for the further reason that the roll of the act as signed by the presiding officers of the two houses of the General Assembly, in open session, and approved by the governor, is conclusive that the act was legally passed, and it is beyond the jurisdiction of the court to make inquiry into the form of procedure had by the General Assembly in passing an act; and for the reason that the court has no authority to interfere or pass upon the constitutionality of the actions of one of the co-ordinate branches of the State government as recognized by the constitution, as to the manner in which constitutional provisions affecting the proceedings of legislation shall be carried out. The introduction of this exhibit is further objected to for the reason that the constitution expressly provides that each house of the General Assembly shall finally, and before the bill is signed, make inquiry in a quasi-judicial way, or otherwise, as to whether all the provisions of the constitution, mandatory or otherwise, regarding the introduction and passage of an act through the General Assembly have been complied with; and for the reason that the
38 action of the legislature, as evidenced and authenticated by the original roll of the bill, as signed by the presiding officers of both houses, and approved by the governor, is conclusive as to what actions were taken thereon.

Mr. REYNOLDS: Defendant offers and introduced in evidence Exhibit "E," and so marked by the notary, being house bill No. 760, printed and published by order of the senate, of date May 22, 1899.

Mr. JEFFRIES: To the introduction of the foregoing Exhibit "E," offered by respondent, the relators object on the ground that the

same is irrelevant and immaterial. And it is objected to for the further reason that the roll of the act as signed by the presiding officers of the two houses of the General Assembly, in open session, and approved by the governor, is conclusive that the act was legally passed, and it is beyond the jurisdiction of the court to make inquiry into the form of procedure had by the General Assembly in passing an act; and for the reason that the court has no authority to interfere or pass upon the constitutionality of the actions of one of the co-ordinate branches of the State government as recognized by the constitution, as to the manner in which constitutional provisions affecting the proceedings of legislation shall be carried out. The introduction of this exhibit is further objected to for the reason that the constitution expressly provides that each house of the General Assembly shall finally, and before the bill is signed, make inquiry in a quasi-judicial way, or otherwise, as to whether all the provisions of the constitution, mandatory or otherwise, regarding the introduction and passage of an act through the General Assembly have been complied with; and for the reason that the action of the legislature as evidenced and authenticated by the original roll of the bill, as signed by the presiding officers of both houses, and approved by the governor, is conclusive as to what actions were taken thereon.

Mr. REYNOLDS: Defendant offers and introduces in evidence certified copy of act approved June 19th, 1899, as certified to by the secretary of state, under date of June 20th, 1899, marked by the notary as Defendant's Exhibit "F."

Mr. JEFFRIES: To the introduction of the foregoing Exhibit "F," offered by respondent, the relators object on the ground that it is immaterial, insufficient and incomplete.

Mr. REYNOLDS: Defendant offers and introduces in evidence paper marked Defendant's Exhibit "D," and identified by the notary as Defendant's Exhibit "D."

It is stipulated by counsel for relators and defendant, that Defendant's Exhibit "D," just offered and introduced, contains all the entries of the journal of the house of representatives of the 40th General Assembly of this State which relate to house bill No. 760, also designated as the Nesbit bill, and the printed pages, being pages 1673 to 1685 both inclusive, contained in said Exhibit "D," contain all that appears in said journal of date May 22, 1899, and that said Exhibit "D" may be used in evidence as if duly certified by the secretary of state, the same consisting of pages from said journal as officially printed and published. This stipulation is made subject to whatever objection may be made thereto by relators.

Mr. JEFFRIES: To the introduction of Respondent's Exhibit "D," the relators object for the reason that it is irrelevant and immaterial. And it is objected to for the further reason that the roll of the act as signed by the presiding officers of the two houses of the General Assembly, in open session, and approved by the governor, is conclusive that the act was legally passed, and it is beyond the jurisdiction of the court to make inquiry into the form of procedure

had by the General Assembly in passing an act; and for the reason that the court has no authority to interfere or pass upon the
39 constitutionality of the actions of one of the co-ordinate branches of the State government as recognized by the constitution, as to the manner in which constitutional provisions affecting the proceedings of legislation shall be carried out. The introduction of this exhibit is further objected to for the reason that the constitution expressly provides that each house of the General Assembly shall finally, and before the bill is signed, make inquiry in a quasi-judicial way, or otherwise, as to whether all the provisions of the constitution, mandatory or otherwise, regarding the introduction and passage of an act through the General Assembly have been complied with; and for the reason that the action of the legislature as evidenced and authenticated by the original roll of the bill, as signed by the presiding officers of both houses and approved by the governor, is conclusive as to what actions were taken thereon; and for the further reason that the court has no authority to examine the journals of the two houses of the legislative department for the purpose of determining whether or not the constitutional provisions were complied with in the passage of an act.

Mr. REYNOLDS: Defendant offers and introduces in evidence paper marked Defendant's Exhibit "C," being the same heretofore filed with the defendant's return in this cause on January 8th, 1900, and so designated, and now marked by the notary, being a certified copy from the secretary of state of the journal of the senate of the 40th General Assembly of the State of Missouri, so far as it relates to house bill No. 760.

Mr. JEFFRIES: To the introduction of Respondent's Exhibit "C," the relators object for the reason that it is irrelevant and immaterial. And it is objected to for the further reason that the roll of the act as signed by the presiding officers of the two houses of the General Assembly, in open session, and approved by the governor, is conclusive that the act was legally passed, and it is beyond the jurisdiction of the court to make inquiry into the form of procedure had by the General Assembly in passing an act; and for the reason that the court has no authority to interfere or pass upon the constitutionality of the actions of one of the co-ordinate branches of the State government as recognized by the constitution, as to the manner in which constitutional provisions affecting the proceedings of legislation shall be carried out. The introduction of this exhibit is further objected to for the reason that the constitution expressly provides that each house of the General Assembly shall finally, and before the bill is signed, make inquiry in a quasi-judicial way or otherwise, as to whether all the provisions of the constitution, mandatory or otherwise, regarding the introduction and passage of an act through the General Assembly have been complied with; and for the reason that the action of the legislature as evidenced and authenticated by the original roll of the bill, as signed by the presiding officers of both houses and approved by the governor, is conclusive as to what actions were taken thereon; and for the further

reason that the court has no authority to examine the journals of the two houses of the legislative department for the purpose of determining whether or not the constitutional provisions were complied with in the passage of an act.

Defendant here rests.

Relators now move to strike out all of the evidence and exhibits introduced by respondent for the reason that they are irrelevant and immaterial. They are objected to, also, for the further reason that the roll of the act as signed by the presiding officers of the two houses of the General Assembly, in open session, and approved by the governor, is conclusive that the act was legally passed, and it is beyond the jurisdiction of the court to make inquiry into the form of procedure had by the General Assembly in passing an act; and for the reason that the court has no authority to interfere or pass upon the constitutionality of the actions of one of the co-ordinate branches of the State government, as recognized by the constitution, as to the manner in which constitutional provisions affecting the proceedings of legislation shall be carried out. The introduction of this evidence and these exhibits is further objected to for the reason that the constitution expressly provides that each house of the General Assembly shall finally, and before the bill is signed, make inquiry in a quasi-judicial way or otherwise, as to whether all the provisions of the constitution, mandatory or otherwise, regarding the introduction and passage of an act through the General Assembly have been complied with; and for the reason that the action of the legislature, as evidenced and authenticated by the original roll of the bill, as signed by the presiding officers of both houses and approved by the governor, is conclusive as to what actions were taken thereon; and for the further reason that the court has no authority to examine the journals of the two houses of the legislative department for the purpose of determining whether or not the constitutional provisions were complied with in the passage of an act.

It is admitted that Cornelius Roach was secretary of the senate and Henry A. Newman chief clerk of the house of representatives of the 40th General Assembly; also, it is admitted, that W. J. Ward was speaker of the house of representatives, and A. H. Bolte was lieutenant governor, and *ex officio* president of the senate of the 40th General Assembly.

This was all the evidence offered by either party in the cause.

STATE OF MISSOURI, }
County of Cole, } *ss:*

I, John A. Lee, a notary public, within and for the county of Cole, in the State of Missouri, do certify that, in pursuance of the agreement between the relators, James McCaffery, *et al.*, and Isaac M. Mason, respondent, they came before me at the supreme court building, in the county and State aforesaid. That then and there, evidence touching certain documents and papers was presented and

reduced to writing in my presence, on the day, between the hours, and at the place in that behalf first aforesaid, and that said depositions are now herewith returned.

Given at Jefferson City, in the county of Cole and State of Missouri, on this 25th day of January, A. D. 1900.

——— ———,
Notary Public.

My commission expires March 3rd, 1902.

RELATORS' EXHIBIT "1."

STATE OF MISSOURI, *ss:*

I, Alexander A. Lesueur, secretary of state of the State of Missouri, hereby certify that the annexed pages contain a full, true and complete copy of an act of the General Assembly of the State of Missouri, entitled "An act to provide for the registration of voters in cities now having or which hereafter may have three hundred thousand inhabitants or more; to provide for the creation of a board of election commissioners, provide for its appointment and define its duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein, and to repeal all acts and parts of acts in conflict or inconsistent herewith."

Also copy of the protest against the signing of the said act, and also copy of the governor's message approving said act, as appears by comparing the same with the original roll of said act now on file as the law directs in this office.

41 In testimony whereof, I hereunto set my hand and affix the great seal of the State of Missouri. Done at my office in the city of Jefferson, this twenty-fifth day of January, A. D. 1900.

[SEAL.] A. A. LESUEUR,
Secretary of State.

(H. B. 760.)

Elections: In Cities of 300,000 *Inhabitants or More.*

An act to provide for the registration of voters in cities now having or which hereafter may have three hundred thousand inhabitants or more; to provide for the creation of a board of election commissioners, provide for its appointment and define its duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein, and to repeal all acts and parts of acts in conflict or inconsistent herewith.

SECTION 1. In all cities of this State now having or which hereafter may have three hundred thousand inhabitants or more, there shall be a registration of all the qualified voters, and said registration and the mode of conducting the elections held in such cities shall be governed and controlled as provided herein, and be subject

to all the provisions of the other election laws of this State, so far as the same are not inconsistent or in conflict herewith.

SEC. 2. Within thirty days after this act becomes a law, the governor, by and with the advice and consent of the senate, shall appoint for each of such cities a board of election commissioners, to be composed of three (3) members, who shall hold their office for the term of four years, and until their successors are commissioned and qualified. One of said commissioners shall be a member of and belong to the leading party politically opposed to that to which the governor belongs. In making the appointment of commissioners, the governor shall designate the commissioner who shall be chairman of the board of election commissioners of such city. In case of vacancy for any cause in said board, the same shall be filled by the governor for the unexpired term until the assembling of the next legislature, when the name of said commissioner shall be submitted to the senate by the governor for confirmation, as those of the other commissioners when appointed. Such commissioners shall be legal voters, residents of the State for at least five years and of such city for a like term and be of approved integrity and capacity; they shall hold no other office, and shall be ineligible to any elective or appointive office during their term of office, and shall, before entering upon the duties of their said office, take and subscribe an oath to support the Constitution of the United States and of this State, and to demean themselves faithfully in office, and each to give bond to the State in the sum of ten thousand dollars with securities to be approved by the governor, conditioned for the faithful and honest performance of the duties of his said office, and the care and preservation of the property thereof. Said oath of office and bond to be filed in the office of the secretary of state. Said election commissioners shall make all necessary rules and regulations, not inconsistent with this act, with reference to the registration of voters and conduct of elections; and shall have charge and make provisions for all elections, general, special, local, municipal, State and county and of all others of every description, to be held in such city or in any part thereof, at any time.

SEC. 3. Such election commissioners shall appoint and commission one deputy election commissioner who shall hold his office during the pleasure of said commissioners, and shall be vested with all the powers and duties of the commissioners during their absence, sickness or inability to perform their duties; said deputy election commissioner shall also be the secretary of the board of election
42 commissioners. Such commissioner shall have the right and may employ additional clerical and other assistance from time to time as may be necessary to promptly and correctly perform the duties of the office. Said deputy election commissioner and employés shall be subject to the same restrictions and take and subscribe like oaths as said commissioners, and file the same in the office of the commissioners. Said election commissioners, deputy election commissioner, and judges of election and registration are hereby authorized and empowered to administer all oaths and affirmations required in the administration of the duties of their

several offices, and in the affairs and business thereof. Said board of election commissioners shall perform all the duties and take the place of the present board of election commissioners of such cities immediately after this act becomes a law. The offices and boards of election commissioners as now constituted and existing in such cities to which this act applies are hereby abolished, and the commissions of such election commissioners hereby revoked, and all acts and parts of acts inconsistent with this act, in so far as they apply to the cities named herein, are hereby repealed.

SEC. 4. The office of such board of election commissioners shall be in the city hall of such city, and shall be kept open for the transaction of the duties and business of said office during business hours. Immediately after the appointment of said commissioners, and upon the opening of such office, the officers or other custodians of said property shall, upon demand by said commissioners, turn over to them all books of registration, poll books, tally-sheets, ballot-boxes, form blanks, stationery, and property of every description in their hands in any way relating to registration and elections, or connected therewith in any manner. Said election commissioners shall purchase and provide all necessary ballot-boxes, and all books of registration, poll books, tally-sheets, ballots, blanks, and stationery of every description with printed headings and certificates and other necessary and proper equipment for the registration of voters and the conduct of such elections, and for every incidental purpose connected therewith, and shall select and appoint the places of registration and also the polling place in each precinct, and cause the same to be fitted up, warmed, lighted, and cleaned, and such place or places shall be located in the most public, orderly, and convenient portion thereof.

SEC. 5. Said election commissioners and deputy election commissioner shall have the power and are hereby authorized to register any person or persons in said office of election commissioners, and re-register or transfer any person or persons who may have changed their residence from one ward to another ward, or from one precinct to another in any ward, at any time, except on such day or days on which a precinct registration may be held in said city, and except such days as intervene between the completion of the registration herein provided and the next following election; a change of residence from one place in a precinct to another place or part thereof shall not necessitate a re-registration or transfer, or deprive the registered voter of his right to vote in said precinct. Such registration of voters shall be done in the same form and manner and in the same book as provided for the registration of voters in the precincts by the judges of election sitting as a board of registration in such precincts.

SEC. 6. It is hereby made the duty of such board of election commissioners for such cities within six months after taking
43 effect of this act, to divide such cities into election precincts regarding ward lines and composed of compact and contiguous territory, which shall contain as nearly as practicable, four hundred actual voters; and in making such division and establish-

ing such precincts, such commissioner shall take as a basis the poll books of the number of votes cast at the last preceding presidential election. At least six months before each subsequent presidential election the election commissioners may revise and rearrange the precincts and increase or decrease their number on the basis of the votes cast at the previous presidential election for President, making such precincts to contain, as near as practicable, four hundred voters, measured by the vote of such election. The precincts in each ward shall be numbered consecutively.

SEC. 7. After the said commissioners are appointed and qualified, they shall prepare for a new and general registration of voters for the next city election or State election, as the case may be; such registration shall be continued and revised as herein provided.

SEC. 8. Such board of election commissioners shall, at least sixty days prior to the first city or State election after this act becomes a law, select and choose four electors as judges of election for each precinct in such city; they must be citizens of the United States, and entitled to vote in such precinct at the next election, must be men of good repute and character, be of good understanding and capable, they must reside in the ward in which the precinct for which they are selected to act is situated, and not hold any office or employment under the United States, the State of Missouri or the city in which such election is held, and not be candidates for any office at the next ensuing election; two clerks of election for each precinct shall also be selected within the same time by such commissioners, who shall possess the same qualifications as the judges aforesaid. Before entering upon the duties of their offices, each judges and clerk, so appointed, shall take and subscribe to like oath as that taken and subscribed by the election commissioners, and file the same in the office of election commissioners. Said judges and clerks shall be appointed for a term ending thirty days prior to the next State election after the election at which they were appointed to serve, and shall, during said term, serve as judges and clerks at all special, local or municipal elections in such cities; where a vacancy in the office of judge or clerk shall occur from any cause, said commissioners shall make an appointment as herein provided to fill such vacancy. Two of said judges and one of said clerks of election shall belong to and be members of the party of opposite politics to the other two judges and clerks.

SEC. 9. Such board of registration and election clerks shall first meet in the precinct on Tuesday four weeks preceding the first general city election, or the first general State election, which shall be the first day of registration, and the second day of registration shall be on the Saturday following, and the third day of registration, Tuesday, three weeks before such election. A new general registration shall be made in every year thereafter in which a presidential election occurs, and just prior thereto the first day of registration in the precinct shall be on Tuesday, four weeks before such election, the second day of registration in the precinct being on Saturday following, and the third day of registration in the precinct, Tuesday, three weeks before such election. Two registry books shall be pro-

vided and furnished to each board of registration by the said election commissioners for the purpose of said registration; the headings to the books shall be so prepared that the registry shall be made alphabetically according to the surname of each person applying, but it shall be arranged so that the residence of such person shall appear in the first column. The registry shall be ruled and one name shall be written on each line, but no name shall be written between the lines. Under the column "residence," the name and number of the street, avenue, or other location of the dwelling, if there be a definite number, and if there shall
44 not be a number, such clear and definite description of the place of such dwelling as shall enable it to be readily ascertained. If there shall be more than one house at the number given by the applicant as his place of residence, state in which house he resides, and if there be more than one family residing in said house either the floor on which he resides, or the number or location of the room or rooms occupied by him, whether front or rear—every floor below the level of the street or ground being designated as the basement, the first floor above such level being designated as the first floor, and each floor above that as the second or such other floor as it may be. Under the column "name," the name of the applicant, writing the surname first, and given or Christian name after in full. Under the column "nativity," the State, county, kingdom, empire or dominion, as the fact stated by the applicant shall be. Under the column "color," the word "white" or "colored," as the fact is. Under the subdivision of the general column "term of residence." the periods, by days, months, or years, stated by the applicant in precinct, city and State. Under the column "native," the word "yes;" under the column "naturalized," the word "yes," according to the fact stated. If the applicant be of foreign birth, and has not been naturalized, but has made a declaration of intention to become a citizen, then under the column "declaration of intention," the word "yes." Under the column "qualified voter," the word "yes," or "no," as the fact shall appear or be determined by the board of registry, it being, however, required of them to designated as a qualified voter any male person who, if otherwise qualified, shall not, at the time of making application, be of age, provided the time when such applicant shall be of the age of twenty-one shall be subsequent to the date of his application, and not later than the day of election immediately following such time of applying, or, if foreign-born, whose declaration of intention to become naturalized will have been made one year before such election. Under the column "date of application," the month, day and year when the applicant presented himself and was adjudged a qualified voter in the election precinct. Under the column "signature," in one of the registers, the applicant shall write his name. If he is unable to write, he shall make his mark after his name is written for him.

SEC. 10. The judges of election aforesaid shall constitute the board of registry in the precinct for which they are appointed. In the registration of voters, said board of registry shall proceed as follows:

They shall open the registration office at eight o'clock a. m., and continue in session until nine o'clock p. m. on each of said days. One of the judges shall administer to all persons who shall personally apply to register the following oath or affirmation: You do solemnly swear (or affirm) that you will fully and truly answer all such questions as shall be put to you touching your place of residence, name, place of birth, your qualifications as an elector, and your right as such to register and vote under the laws of this State; so help you God. Each of said clerks of election and one of said judges of election shall have charge of the registry books and shall make the entries therein required by this act, and one of the judges shall ask the question as to qualifications, and after he is through any of the judges may ask questions. One of the judges of election may, when necessary, relieve one of the clerks from time to time, as necessity may seem to demand, in making entries in said books. The name of every applicant shall be entered in such registry books, and all the facts shall be therein stated, as hereinafter provided, whether he is entitled to vote or not. If it shall be determined by the board of registry that he is not a qualified voter in such precinct, then an entry shall be made in the appropriate column "no," and if qualified, an entry shall be made in the same
45 column "yes." Unless a majority of the judges shall determine the applicant is a qualified voter he shall be entered as not qualified, subject to the applicant's right of appeal as herein provided. Only such male persons, of the age of twenty-one years, residing in such precinct, as apply personally for registration, shall be entered in such register; but every applicant who would be twenty-one years of age on the day of the next election, or, if foreign-born, whose declaration of intention to become naturalized will have been made one year before such election, if otherwise qualified, shall be entered on such registers. Every applicant who has commenced to reside in such precinct at least twenty days before such election shall be entered in such registry, and shall be marked "qualified" or "disqualified," as the case may be; but unless, on the day of election, he shall have resided twenty full days in such election precinct, he cannot vote therein, although otherwise qualified. At the end of the day's registration, each of said judges shall sign his name at the end of the list on each page of the registration book. Any vacancy upon such board of registration on any day of registration by reason of absence, disqualification, refusal to act or otherwise, of any judge or clerk of election, shall be filled by the judge or judges present, and the same oath shall be administered by one of the judges present to such judge or clerk as provided for regular judges and clerks. The judge or clerk so appointed shall be of the same politics as the judge or clerk he succeeds.

SEC. 11. Every male citizen of the United States, and every male person of foreign birth who may have declared his intention to become a citizen of the United States according to law, not less than one year nor more than five years before he offers to vote, who is over the age of twenty-one years, who has resided in the State one year next preceding the election at which he offers to vote, and

during the last sixty days of the time shall have resided in the city where such election is held and during the last twenty days of that time in the precinct at which he offers to vote, who has not been convicted of bribery, perjury or other infamous crime, or of a misdemeanor connected with the exercise of the right of suffrage, nor directly interested in any bet or wager depending upon the result of the election, nor any officer, soldier or marine in the regular Army or Navy of the United States, nor while kept at any poor-house or other asylum at public expense, nor while confined in any public prison, shall be entitled to vote at such election, for all officers, State or municipal, made elective by the people, or at other elections held in pursuance of the laws of the State, but shall not vote elsewhere than in the precinct where his name is registered, and whereof he is registered as a resident.

SEC. 12. The election commissioners shall prepare and furnish to the board of registration in each precinct two blank books, to be known as "verification lists," each page to be ruled into columns, and contain pages sufficient for each street, avenue and alley in the precinct. During the progress of registration, or immediately thereafter, the clerks of said board shall transfer all the names upon the register to the left-hand pages of such "verification lists," arranging them according to the street, avenues, alleys or courts, beginning with the lowest residence number, and placing them numerically, as nearly as possible, from the lowest up to the highest number. They shall first write the name of such street, avenue, alley or court at the top of the second column and then proceed to transfer the registered names to the pages of such "verification lists," headed (*and*) "registered names," according to the street number as above indicated. If, during either day of registration, a registered voter of the ward shall come before the board of registry and make oath that he believes that any particular person upon such registry is not a qualified voter, such fact shall be noted; and after the completion of such "verification lists," such board, or one of said judges, shall make a cross or checked mark in ink
46 opposite such name upon each of said "verification lists." If such judges shall, however, know that any person so complained of is a qualified voter, and shall believe that such complaint was only made to vex and harass such qualified voter, then such cross or checked mark shall not be put upon such lists. Said board of registration shall, before eight o'clock on the following day, return said "verification lists" to the office of such election commissioners.

SEC. 13. The clerks of election are hereby constituted canvassers of the precinct for which they are appointed, and, upon the Wednesday and Thursday following the third day of registration, if so much time shall be required, said two clerks shall, each having one of said "verification lists," go together and canvass such precinct, calling at each dwelling place or each house where any one may reside in such precinct, and each dwelling place as indicated upon said "verification lists," and if they shall find that any person upon their "verification lists" does not reside at the place designated

thereby, they shall make a check-mark opposite such name. If, in making any such canvass, any person shall refuse to answer questions and give the required information asked for and known to him or her, such person shall be deemed guilty of a misdemeanor, and be liable to a penalty not to exceed $50. In making such canvass, such canvassers shall make special inquiry at the residences as designated in the registry and "verification lists," as to all the persons so registered as qualified voters. Three copies thereof shall be made; one copy shall be given to each of said clerks at the close of the third day of registration, and the third copy shall be returned to the election commissioners. Said clerks shall meet at eight o'clock in the forenoon of each day of said canvass, and proceed with such canvass. Each of said clerks shall have one copy of said "verification lists." If either of said clerks shall fail to appear at the place designated by fifteen minutes after eight o'clock, on either of said days, the election commissioners shall immediately appoint a clerk of the same politics, in place of the one absent, or failing to act. And such clerk so failing to appear, or refusing to continue or abandoning said canvass, shall be deemed guilty of a misdemeanor, and, on conviction, be punished by imprisonment for not less than one month nor more than one year.

SEC. 14. Immediately upon the completion of said canvass, said canvassers, or one of them, shall sign a notice and send the same through the mail to the address given upon the registry and "verification lists," of all persons named therein against whose names they have made check-marks, indicating that they did not reside at such place as before stated, and also to the address of all persons against whose names said registry board or judge of election has placed a check-mark in such "verification lists," which notice shall require such person to appear before the board of registry upon the Saturday following, and to show cause why his name should not be erased from such registry. Proper blanks and postage stamps shall be furnished for the purpose to said canvassers by the commissioners. A similar notice shall also be served by one of said canvassers, either at the time said canvass is being made or before the following Saturday, by leaving the same with the party, if found, or, if he be not found, at the place designated in such registry and "verification lists," by leaving the same at such address, if there be such place. Such notice, to be sent through the mail, must be mailed not later than ten o'clock Friday morning of the week of such canvass. Any willful neglect of such canvassers to mail the notice aforesaid to all the parties checked and designated as aforesaid, or to leave the notice aforesaid at the place designated for such person so designated, or to check the name of any person on said "verification lists," transferred from the registry as aforesaid and not found at the place designated, or to transfer all the names from the registry as aforesaid to such "verification lists," as aforesaid, shall be a misdemeanor, punishable by imprisonment not less than one
47 month nor more than one year. And it shall be the duty of said commissioners, when complaint is made to them, to in-

vestigate the action of such clerks or canvassers, and to cause them to be punished for such neglect of duty.

SEC. 15. On the Saturday following the Tuesday, three weeks preceding such election, said board of registration shall again meet at the place designated, and the said clerks of election shall meet with them, and they shall remain in session from 10 o'clock a. m. until 10 o'clock p. m., for the sole purpose of revising their registry; and no new names shall be added. Said canvassers, or one of them, shall make out a list of the names of parties checked and designated as aforesaid, and to whom such notice has been sent, given or left with the address, stating that notice was mailed to each of said parties at the places designated on such lists, on or prior to 10 o'clock a. m. of the previous Friday, and that notice was also personally left at the said address of each of said parties named in said list so attached, if there be any such address. If any person to whom such notice has been sent shall appear before the board of registration during that session, said board of registration shall further examine him on oath, and also swear such canvassers, and hear him or them upon the question, and if, after, such examination and hearing, the majority of said board are of the opinion that such person is not a qualified voter in such precinct, they shall mark the word "yes," under the column of the registry marked "erase," and shall also draw a line in ink under his name; which, in case of any registration, shall indicate that the name of such person is erased from the register, and shall not be entitled to vote unless his name be restored as herein provided. If any person to whom notice has been sent because his declaration of intention to become naturalized has been made more than five years before the next election, shall appear before said board at such session, he shall show in the same manner as in the case of original registration that he has become naturalized, otherwise his name shall be erased from the register. In making correction of entries as to residence and naturalization, a line shall be drawn through the former entries, the proper entries made, and the word "corrected," with the date, written in the column headed "remarks." During the last hour of said session, if any person so notified to appear at such session shall not appear and show cause why his name should not be erased from such register, the same shall be erased. Either of said clerks shall have the power and right of both in the matter pertaining to such canvass, except that both are required to go together to make such canvass. The "verification lists" aforesaid, after the final revision, shall be at once returned by the board of registration to the office of the election commissioners. If any person, already registered, shall appear before said board at such session and make oath that he has removed to another place in the same precinct, said board, if they believe him, shall not erase his name, but shall make the correction to his residence in the books of registration.

SEC. 16. Any voter or voters in the ward containing such precinct may make application in writing before said board of registration at the session mentioned in the next preceding section, to have any name upon such register of any precinct erased, and of which application,

the person making the same shall give the person whose name he seeks to erase due notice in writing or otherwise, at least one day before the day of said session. If, upon hearing the application, the board of registration conclude to erase the name they shall so note it on the register. Such person may appear before the board of election commissioners for the purpose of reinstating his name on the register of voters, presenting from the board of registration a certificate of his rejection and briefly the reason therefor, giving the precinct and ward.

SEC. 17. At the end of the last session provided for, the said board of registration and said clerks shall compare and correct the registers aforesaid, and make them correspond and agree; and said judges shall then, immediately following the last name on each page
48 of the register, sign their names so that no other name can be added without discovery, and shall return the two registers to the possession of the election commissioners; thereupon the said commissioners shall at once cause copies to be made of such registers, of all the names upon the same, with the address, and arranged according to the streets, avenues or alleys, commencing with the lowest number, and arranging the same in order according to street numbers, and shall then cause such precinct register, under such arrangement, to be printed in sufficient numbers to meet all demands; and upon application a copy of the same shall be given to any person in such precinct. Said registers in the office of the election commissioners shall be public records and open to public inspection.

SEC. 18. Every general registration shall be made in the same manner and in conformity with the directions herein. At every general registration, every person desiring registration shall appear in person and make application, under oath, as in the case of the first registration herein provided. The same form and blanks and methods of proceeding shall be had before and by the board of registry, and by the canvassers, and by and before the judges of election and election clerks, and by the election commissioners
49 in every subsequent registration, as is directed herein for the first registration, and election following the same. If any special election, occurring in a portion of such city only, or which is to fill a vacancy occurring in a single office, there shall not be a general revision of the registry.

SEC. 19. At every election held in such cities between the general registrations above referred to, the last general registry shall be used, and for that purpose the board of registration shall meet on Tuesday, three weeks preceding such election, and on the Saturday following, and shall hold a session from 8 o'clock a. m., until 10 o'clock p. m., on each day, and names may be added to the register in the same way, upon sworn applications as in the case of a general registration, and all the other forms and requirements are to be observed as provided with reference to general registration, both as regards the canvass after registration, the revision of the registration and otherwise. At every election held in such cities between the time this act becomes a law and the next general registration

provided for herein, the registry books of qualified voters in such cities at the last general city or State election, and used in said election as the registry of qualified voters of such cities, and the registry of qualified voters under section 5 of this act, together with the registry of qualified voters, made as provided in this section, shall be the registry of qualified voters of such city used and in force for such elections. New books of registry shall be prepared and furnished as provided in section 9 of this act by said election commissioner for the registration required to be made in every presidential year by this act; and the registry and other books no longer required, or used, shall be kept and preserved in the office of the election commissioners.

SEC. 20. Any voter of the precinct shall be permitted to be present at the place of registration in said precinct, and shall have the right to challenge any applicant who applies to be registered; but if the board is satisfied that such person is a qualified voter, he must be so registered; if denied the right to be registered as a qualified voter in such precinct, he may make and sign an application, in writing, and file the same with the election commissioners, to be heard and considered by the board of appeals, as in other cases provided.

SEC. 21. Said election commissioners shall, on Thursday, Friday and Saturday of the week prior to the week in which such general or presidential election is to be held, sit as a board of appeals, to hear such applications and appeals as shall be made to be placed upon the registry of voters of any particular precinct, of persons who applied for registration and were refused by the board of registration, or had their names stricken from the registry by said board. Said board of appeals may also register as qualified voters, such persons as may make application, who failed to appear before the board of registration because of sickness, forgetfulness, absence from the city or other reasonable cause, at the time of precinct registration.

SEC. 22. It shall be the duty of such election commissioners to give ten days' notice in two daily newspapers of such cities, of opposite politics, of the time and place of registration in each precinct of the city, and on the day preceding any election, have delivered the two registers of said precinct, the ballot-box, poll books, verification lists, and necessary blanks and stationery, packages of ballots and key to box, to one of said judges of election, at his residence in such precinct.

SEC. 23. The election polls shall be open at 6 o'clock in the morning and continue open until seven o'clock in the afternoon of the same day, at which time they shall be closed. No judge or clerk shall absent himself to exceed five minutes at any one time until the ballots are all cast and counted, and returns made thereof. If any judge or clerk shall not be present after the expiration of fifteen minutes from the time to open the polls, or be disqualified, or refuse to act, the judge or judges present shall fill the place of such absent judge or clerk, or vacancy by selecting a person of the same political party as the judge or clerk absent. One of the judges shall
50 administer to such judge or clerk the oath required of the judge or clerk originally appointed, and such appointee per-

form like duties and be subject to the same punishment and penalties as any other judge or clerk. Any judge or clerk who shall willfully absent himself from the polls on election day, without good cause, shall be guilty of a misdemeanor, and subject to a fine of five hundred dollars. And if such judge or clerk shall willfully detain any register or poll book or ballot, and not cause them to be produced at the polling place at the opening of the polls, or for fifteen minutes thereafter, he shall be guilty of a misdemeanor, and, on conviction, be imprisoned not less than three months nor more than one year, or fined not less than $200 nor more than $1,000.

SEC. 24. Before voting begins the ballot-box shall be empty, and it shall be opened and shown to those present to be empty, and not be removed from public view from the time when shown to be empty until after the close of the polls. It shall be locked and the key delivered to one of the judges and shall not again be opened until the close of the polls. The judges of election shall each be held guilty of a misdemeanor if such ballot-box shall not be kept constantly in public view during the progress of the election, unless it shall be shown by a judge that he protested against such obstruction of the view of the ballot-bax, and was overruled by a majority of the judges. If any obstruction shall be, prior to or during such election, interposed so that all who desire cannot constantly see such ballot-box, it shall be the duty of such judges to remove such obstruction on request of any voter of the precinct.

SEC. 25. Each of the clerks of the election shall keep a poll book which contains a column headed "number," another headed "residence," and another headed "names of voters." The name and street and number of the residence of such voter shall be entered upon each of the poll books by the clerks, in regular succession, under the proper headings, and the number of such voter, in the order in which he voted, placed opposite the name in the column headed "number."

SEC. 26. One of the said judges of election shall receive the ballot from the voter, and shall announce his residence and name in a loud voice, and shall write on the back of said ballot the number of the same, in the order in which it was received, which number shall also be placed opposite the name of the voter in the poll book, in the column headed "number," and another judge shall put the vote in the ballot-box in the presence of the voter and the judges and clerks, and in plain view of the public. The judge or clerk having charge of the registry shall then, in a column prepared thereon, in the same line of the name of the voter, marked "voted," or the letter "V." If such person so registered shall be challenged or disqualified, the party challenging shall assign his reason therefor, and thereupon one of said judges shall administer to him an oath to answer questions, and he shall be questioned by said judge or judges touching such cause of challenge, and touching any other cause of his disqualification, and may also be questioned by the person challenging him in regard to his qualifications and identity, but if a majority of the judges are of the opinion that he is the person so registered and a qualified voter, his vote shall then be received ac-

cordingly. The vote of no one shall be received by said judges whose name does not appear upon the books of registration as a qualified voter.

SEC. 27. Said judges of election shall have authority to keep the peace and to cause any person to be arrested for any breach of the peace or for any breach of the election laws, or for any interference with the progress of such election or of the canvass of the ballots, and it shall be the duty of all officers of the law present to obey the order of such judges of election. At every registration and election, each of the political parties shall have a right to designate and keep a challenger at each place of registration, revision of registration and voting, who shall be assigned such position inside the polling or registration booth, as will enable him to see each person as
51 he offers to register or vote, and who shall be protected, in the discharge of his duty, by the judges of election. Two persons of each political party, represented on the ballot, of good character and standing, may be admitted, by the judges, into the polling place to be present during the canvass of the votes and the making of the returns.

SEC 28. As soon as the poll of an election shall be finally closed, the judges of election, in their several precincts, shall immediately, and at the same place of the election poll, proceed to canvass the votes. Such canvass shall not be adjourned or postponed until it shall be fully completed, nor until the statements herein required to be made by the judges and clerks shall be made out and signed by them. The judges of election shall have the right to station one or more police officers or other peace officers, at such entrance to the room where such canvass is begun or about to take place, to exclude noisy or disorderly persons, and to keep the peace.

SEC. 29. The judges of election shall first count the whole number of ballots in the box. If the ballots shall be found to exceed the number of names entered upon each of the poll books, they shall reject the ballots, if any, found folded inside of a ballot; and if the ballots and the poll list do not agree after such rejection, they shall reject all ballots not numbered, and no ballot not so numbered shall be counted. The ballots so rejected shall be enclosed in an envelope marked "rejected ballots," and returned with the ballot-boxes to the election commissioners; and the ballots or poll lists agreeing or being made to agree in this way, the board shall proceed to count the votes in the following manner: Said judges shall open the ballots and place those which contain the same names together, so that the several kinds shall be in separate piles, or on separate files. Each of the judges shall examine the separate files which are *on*, or supposed to be alike, and exclude from such files any which may have a name or any erasure, or in any manner shall be different from the other of such file. One of said judges shall then take one file of the kind of ballots which contain the same name and count them by the tens, carefully examining each name of each of said ballots. Said judge shall then pass the ten ballots aforesaid to other judges, who shall count them in the same manner, and call the names of the persons named in the ten ballots, and

the offices for which they are designated, and the poll clerks shall tally ten votes for each of such persons. When they shall have gone through such file of ballots containing the same name by tens in that way, and when the clerks shall have tallied all the votes by tens for each of said persons, they shall then take up the next pile of ballots containing the same names, and shall count them by tens in the same way, and shall call the names of the persons named in said ballots and the offices for which they are designated, and the clerks shall tally the vote by tens for each of said persons in the same manner. When the counting of each file of ballots which contain the same names shall be completed, the clerks shall compare their tallies together and ascertain the total number of ballots of that kind so canvassed, and when they agree upon the number, one of them shall announce it in a loud voice. The said judges shall then canvass the other kind of ballots which do not correspond, those containing names partly from one kind of ballots and partly from another, being those usually called "split tickets," and those from which the names of the persons proper to be voted for on such ballots had been omitted or erased, usually called "scratched tickets." They shall be canvassed separately by the judges, and each name called out to the clerks and the office for which it is designated, and the clerks making tally of the same. When all ballots are canvassed in this manner, the clerks shall compare their tallies together, and ascertain the total number of votes received by each candidate, and when they agree upon the number, one of them shall announce in a loud voice the number of votes received by each candidate on each of the kinds of ballots containing his name.

52 SEC. 30. Whenever any proposition is submitted to a vote of the people, and is printed or written upon the same ticket with the names of candidates for an office, the names, together with such proposition, shall be canvassed in the following manner: All the ballots shall be first separated into three piles, the first pile containing all the ballots in favor of such proposition; the second pile containing all the ballots against such proposition; and the third pile containing all the ballots not mentioning such proposition, or being neither for nor against such proposition. Each of the judges shall then examine each pile and see that the separation has been properly made. Then the first pile shall be counted by tens and the result announced to the clerks, who shall tally the same by tens; and so the second pile shall be counted, announced and tallied, and likewise the third pile; and the clerks shall announce the number of votes for, and the number of votes against, such proposition. The ballots for or against any proposition submitted shall always be canvassed, counted and tallied before the names of candidates for any office are canvassed, counted or tallied. If the tally-sheets and returns should contain no heading for any proposition submitted, it shall be the duty of the clerks to write into such tally-sheets and returns the headings necessary in order to keep a correct tally and to make a correct and accurate return, and it shall be the duty of the clerks and judges of election to make a true count and correct

return of all votes upon any such proposition, and certify the same to the election commissioners, as provided herein in other cases.

SEC. 31. The said judges of election shall make two statements of the result of the canvass, one of which shall be written or partly written and partly printed in each of the poll books used at such election. Each of these statements shall contain a caption stating the day on which, and the number of the election precinct and the ward, and city in relation to which such statement shall be made, and the time of opening and closing of the polls of such precinct. It shall also contain a statement showing the whole number of votes given for each person, designating the office for which they were given, which statement shall be written or partly written and partly printed in words at length; and in case a proposition of any kind has been submitted to a vote at such election, such statement shall also show the number of votes cast for or against such proposition, written out or partly written and partly printed in words at length, and at the end thereof a certificate that such statement is correct in all respects, which certificate and each sheet of paper forming part of the statement, shall be subscribed by the said judges and election clerks. If any judge or election clerk shall decline to sign such returns, he shall state his reason therefor, in writing, and a copy thereof signed by himself shall be enclosed in an envelope, which shall then be securely sealed, and each of the judges and each of the election clerks shall write his name across every fold at which the envelope, if unfastened, could be opened. And the envelope shall be directed on the outside to the election commissioners. Each set of tallies shall also be signed by the election clerks and judges of election, and shall also be enclosed in an envelope, securely sealed and signed and directed on the outside of envelope to said election commissioners. On the outside of envelope shall be endorsed whether it contains the statement of the votes cast or the tallies, and for what precinct and ward.

SEC. 32. The poll books which contain the statement of returns shall be placed in the ballot-box, and the ballot-box shall then be locked and the key removed; whereupon, said judges of election shall all write their names upon a slip of paper of sufficient length for the following purposes: Said slip of paper, after the signing of their names thereon by said judges, shall then be pasted over the keyhole of the said box and extending upward to the upper lid of the box and carried for some distance over the top, and it shall be placed in such a way that the signatures of said judges shall extend across the place of the opening of the lid of the box, so that when the box is opened it shall tear such paper and destroy the
53 signatures written thereon, and when the key shall be inserted in the keyhole it will tear the paper so pasted over the keyhole. Such paper shall be fastened with some adhesive material and so as not to permit the removal of such slip of paper without defacing it.

SEC. 33. The judges shall fold in two folds and string closely upon a string or wire, all ballots counted by them, except those marked "defective," or "rejected," unite the ends of such string or wire in a

firm knot, enclose the ballots so strung in an envelope, on which shall be endorsed in writing or print, the number of the precinct, date on which such election was held, and securely seal such envelope, so that it cannot be opened without breaking the seal, and return said ballots, together with the package containing the ballots marked "defective," or "objected," or "rejected," in such sealed package or envelope to the election commissioners and deliver said ballot-box and the key thereto immediately after signing the statement of the result of the canvass and tally-sheets and the sealing of the ballot-box, go to the office of the election commissioners and deliver said ballot-box and the key thereto to said election commissioners, who shall keep the office open until all of said ballot-boxes have been received. Immediately upon receiving said ballot-boxes, said commissioners shall give a receipt therefor to said judges, and shall place them properly arranged in the order of precinct numbers in boxes which shall be securely locked. Said boxes shall be placed in a vault having a double lock, and said vault shall be locked. Said election commissioners shall securely keep said ballot-boxes for twelve months, not opening or inspecting them nor allowing any one else to do so, except upon order of court in case of contested election, or when it shall be necessary to produce them at the trial of an offense committed under this act. At the end of twelve months after said election, said ballots shall be destroyed. Provided, that if any contest of the election of any officer voted for at such election, or prosecution under this act shall be pending at the expiration of said time, the said ballots shall not be destroyed until such contest or prosecution be finally determined.

SEC. 34. Another judge shall take a statement of the votes cast into his possession, sealed up in an envelope as aforesaid, and one of the clerks shall take a tally-sheet, sealed up in an envelope as aforesaid, and the judge having possession of statement and the clerk having possession of tally-sheet, shall each, before twelve o'clock of the next day after such election, deliver the statement and tally-sheet to the said election commissioners, and take a receipt from them therefor. And it shall be the duty of the said election commissioners to receive the same, and to keep safely under lock and key until ordered to be surrendered as herein provided.

SEC. 35. The said election commissioners, upon the receipt of said ballot-box and key thereto, shall note the condition of seal or stamp on said box, and enter the fact touching the same upon a book kept by them, together with the name of the judge who returns such ballot-box; he shall thereupon open said ballot-box and remove the poll books containing the returns of the votes cast, and note upon the book their condition, and put them in a secure place under lock and key, to which the public, in no event, shall have access. If any judge or judges or clerks taking ballots, ballot-boxes, statement, tally or poll books, to be delivered to the election commissioners, shall fail to deliver the same to said election commissioners within three hours after the close of the canvass of the votes as aforesaid, or shall fail or refuse to comply with the provisions of this act, he or they shall be deemed guilty of a misdemeanor, and

upon conviction thereof, shall be fined not less than $25 nor more than $500, or imprisonment not more than six months, or by both such fine and imprisonment.

SEC. 36. Within eight days after the close of such election such board of election commissioners shall publicly open all the returns aforesaid and shall make abstracts of statements of all the votes for governor and lieutenant governor on one sheet; all votes for
54 other State officers on another sheet; all votes for presidential electors on another sheet; all votes for judges of the supreme court on another sheet; all votes for judges of the court of appeals on another sheet; all votes for members of Congress and for senators and representatives to the General Assembly on another sheet; all votes for county officers on another sheet; all votes for city officers on another sheet; all votes for any other officer on a separate and appropriate sheet; all votes for and all votes against any proposition which may be submitted to a vote of the people on another sheet. It shall be the duty of such board to canvass, add up and declare the result of every election held within the boundaries of such city, and transmit an abstract of the same to the secretary of state, or other proper officer, as required by law; and such abstract or results, and a certified copy thereof, shall be treated everywhere within the State, and by all public officers, with the same force and effect as the abstract of votes now authorized by the laws of the State in such cases made and provided.

SEC. 37. The election commissioners shall make out a certificate of election to each person having the highest number of votes for the several offices voted for, including aldermen and members of the municipal assembly, and deliver such certificate of election to the person entitled to it on his application.

SEC. 38. If, upon opening the various returns so made, there shall be anything to indicate that a change has been made in such returns since signing the same by the judges and clerks of any fraud in any respect touching such returns, it shall then be the duty of the board to have all the tallies opened and examined. If there shall then be any doubts as to the genuineness of such returns for any precinct, and as to the actual vote as originally returned, and the truth respecting the same remain uncertain, it shall be the duty of said canvassers to examine any person or persons who were present at the time of the proclamation so made by the judges of election in such precinct, about which any doubt may arise, and the board shall be permitted to place such parties or witnesses under oath and examine them touching the same, and it shall be their duty to cause such parties who were present at the time of such proclamation to come before them, and a subpœna may be issued by the election commissioners compelling any such witness to come before such board and give their evidence touching the matter; and it shall be the duty of said board to declare the result of the vote in any such precinct in regard to which any question arises, in the vote, in the same manner as it was proclaimed by the judges of election after the canvass by them in such precinct, the result, so de-

cared, shall be binding and conclusive, except in case of election contests.

SEC. 39. Any person who shall impersonate an elector or other person, and register or attempt to offer to register the name of such elector or other person, or if any person shall fraudulently register or offer, or attempt to register in or under the name of any other person or in or under any assumed or fictitious name, or in or under any name not his own, or shall register in two election precincts; or having registered in one precinct, shall attempt to register in another, or shall knowingly, by false personation or otherwise, cause or procure, or attempt to procure, the name of any qualified voter in any election precinct to be erased or stricken from any registry of voters of such precinct, made in pursuance of this act, or otherwise as in this act provided; or by force, threat, menace, intimidation, bribery, reward or offer or promise thereof, or other unlawful means, prevent, hinder or delay any person having a legal right to register or to be registered, from duly exercising such right; or shall solicit, counsel, or induce by unlawful means, any officer of registration to register any person not entitled to registration in such precinct; or to register any false, assumed or fictitious
55 name, or any name of any person, except as provided in this act, upon conviction, shall be adjudged guilty of felony and punished in the penitentiary not less than two years.

SEC. 40. Any person who shall falsely personate an elector, or other person, and vote, or attempt or offer to vote in or upon the name of such elector or other person; or shall vote, or attempt to vote, in or upon the name of any other person, living or dead, or in or upon any assumed or fictitious name, or in or upon any name not his own; or shall knowingly, willfully or fraudulently vote more than once for any candidate for the same office except as authorized by law; or shall vote, or attempt or offer to vote in any election precinct without having a lawful right to vote therein; or vote more than once, or vote in more than one election precinct; or having voted once, shall vote, or attempt to vote again; or shall knowingly, willfully or fraudulently do any unlawful act to secure a right or opportunity to vote for himself or for any other person to vote; or shall by force, threat, menace, intimidation, bribery or reward, or offer or promise thereof, or otherwise unlawfully, either directly or indirectly, influence or attempt to influence any elector in giving his vote; or prevent or hinder, or attempt to prevent or hinder, any qualified voter from freely exercising the right of suffrage; or by any such means induce, or attempt to induce, any such voter to exercise any such right, shall, upon conviction, be guilty of a felony and punished for every such offense by imprisonment in the penitentiary not less than two years.

SEC. 41. Every election commissioner, deputy election commissioner, judge of election, clerk, canvasser or other officer, authorized to take part in or perform any duty in relation to any canvass or official statement of the votes cast at any election in any precinct or in any city, who shall make any false canvass of such votes; or shall make, sign, publish or deliver any false return of such elec-

tion, or any false certificate or statement of the result of such election, or who shall deface, destroy or conceal any statement, tally or certificate entrusted to his care or custody, shall, on conviction thereof, be adjudged guilty of a felony, and be punished by imprisonment in the penitentiary not less than two years.

SEC. 42. If any person other than a judge of election, shall at any such election knowingly or willfully put or cause to be put any ballot or ballots, or other paper having the semblance thereof, into any box used at such election for the reception of votes; or if any judge of election shall knowingly and willfully cause or permit any ballot or ballots to be in said box at the opening of the polls, and before the voting shall have commenced; or shall knowingly, willfully or fraudulently put any ballot or other paper having the semblance thereof or cause or permit any ballot or other paper having the semblance thereof to be put in any such box at any such election, unless the same shall be offered by an elector, and his name shall have been found and kept upon the registry, as herein provided, or who shall be entitled to vote under this act; or if any such judge of election or other officer or person, shall, during the canvass of the ballots, in any manner change, substitute or alter any ballot taken from the ballot-box then being canvassed, or from any ballot-box which has not been canvassed; or shall remove any ballot or semblance thereof from, or add any ballot or semblance thereof to, the ballots taken from the ballot-box then being canvassed, or from any ballot-box which has not been canvassed. Every such person shall, upon conviction, be adjudged guilty of a felony, and punished by imprisonment in the penitentiary not less than two years.

SEC. 43. If, at any registration of voters, or on any day of election, or during the canvass of the votes cast thereat, any person shall cause any breach of the peace, or be guilty of any disorderly conduct, violence or threats of violence, whereby any such registration, revision, election or canvass shall be impeded or hindered; or whereby the lawful proceedings of any judge of election, or board of registration, or clerk or other officer of such election or
56 challenger, or person designated to be present at the canvass of any ballots, as herein provided, or interfered with; every such person shall, upon conviction, be adjudged guilty of a misdemeanor, and punished by imprisonment not less than thirty days nor more than one year.

SEC. 44. It shall be unlawful for any judge of election, clerk or person designated as provided in this act, or any person or persons within the polling place, to electioneer for any candidate, party or proposition. Any violation of this section shall be a misdemeanor, and shall be punished by imprisonment not less than ten or more than ninety days, or by a fine of not less than fifty nor more than one hundred dollars.

SEC. 45. It shall be the duty of such election commissioners to aid in the prosecution of all crimes and offenses against this act, and they shall keep a book in which shall be entered all complaints against persons claimed to be guilty of the violation of this or any

law of the State concerning registration and election, and when, in the judgment of such election commissioners such offense has probably been committed, it shall be their duty to cause a prosecution to be instituted against such person.

SEC. 46. In all cities not within counties such election commissioners, deputy election commissioners, judges and clerks of election and registration and clerks and assistants employed by the board of election commissioners shall be paid by the city. The members of said boards of election commissioners shall each receive a salary of $2,500 a year, and deputy election commissioner a salary of $2,000 a year, all payable monthly. The assistants and clerks employed by the election commissioners shall each receive a salary of $4.00 per day for the time actually employed, payable monthly. All office and other expenses incurred by said board of election commissioners, and all office and other expenses and all costs and expenses of registration and election in such cities shall be paid out of the city treasury. All printing, binding, books, stationery, etc., shall be paid for in the same manner and contracted for by the board of election commissioners.

SEC. 47. The act of a majority of such board of election commissioners shall in all cases arising under this act be considered as the act of said board of election commissioners.

SEC. 48. Said board of election commissioners shall audit all the claims of the judges of election and of registration and all other claims, expenses and accounts under this act, and shall draw a warrant therefor upon the proper officer.

SEC. 49. All acts and parts of acts inconsistent or in conflict with this act are hereby repealed, and the act, entitled "An act to create a board of election commissioners, etc., approved May 31st, 1895," is hereby repealed.

Approved June 19, 1899.

Originated in the house.

W. J. WARD,
Speaker House of Representatives.
H. A. NEWMAN,
Chief Clerk House of Representatives.
A. H. BOLTE,
President of the Senate.
CORNELIUS ROACH,
Secretary of the Senate.

I hereby certify that I have carefully compared the foregoing bill with the engrossed copy of the original thereof together with house amendment to title and find the same to be truly enrolled.

MATTHEW COFFEY,
Chairman Committee on Enrolled Bills.

Approved June 19, 1899.

LON V. STEPHENS, *Governor.*

STATE OF MISSOURI, } ss:
County of Cole, }

Charles Schweickardt, T. C. Martin, F. W. Mott, Charles F. Busche, James M. Rollins, senators of the 40th General Assembly of
57 the State of Missouri, being first duly sworn, upon their oaths hereby protest against house bill No. 760, which purported to pass and be adopted by the senate and house of representatives of the fortieth General Assembly of the State of Missouri, being signed by the presiding officer of the said senate for the following reasons:

Because said house bill No. 760 is a local and special law, and no notice of the intention to apply therefor was published in the locality where the matter or thing to be affected was situated, stating therein the substance of the contemplated law, nor was any such notice published for at least thirty days prior to the introduction into said General Assembly of said bill in the manner provided by law or in any other manner *of* form whatever, nor was any evidence of such notice having been published exhibited to said General Assembly before said bill or act was passed by either the said house of representatives or the said senate, and no such notice is recited in said act, or any notice whatever, all of which is in violation of section 54 of article 4 of the constitution of the State of Missouri.

CHAS. SCHWEICKARDT.
T. C. MARTIN.
[SEAL.] F. W. MOTT.
CHAS. F. BUSCHE.
JAS. M. ROLLINS.

Subscribed and sworn to before me this 20th day of May, A. D. 1899. My commission expires January 24, 1902.

A. M. HOUGH,
Notary Public.

EXECUTIVE DEPARTMENT,
STATE OF MISSOURI, JEFFERSON CITY, *June* 19, 1899.

To the secretary of state.

SIR: I have the honor to forward to you herewith, with my approval endorsed thereon, the following bills, which reached me within the ten days next before the final adjournment of the 40th General Assembly.

* * * * * * *

House bill No. 760, entitled "An act to provide for the registration of voters in cities now having or which hereafter may have three hundred thousand inhabitants or more; to provide for the creation of a board of election commissioners, provide for its appointment and define its duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein, and to repeal all acts and parts of acts in conflict or inconsistent herewith."

Respectfully, LON V. STEPHENS, *Governor.*

"RELATORS' EXHIBIT '2.'"

(19835.)

An ordinance making appropriations to meet interest maturing and other expenses of city government herein named, for the fiscal year, beginning April eleventh, eighteen hundred ninety-nine, and ending April ninth, nineteen hundred, including bills unpaid at the beginning of the fiscal year, and transferring certain amounts of temporary appropriations back to their respective revenues.

Be it ordained by the municipal assembly of the city of St. Louis, as follows:

* * * * * * *

Election and registration.—For salaries of commissioners and assistants, twenty-seven thousand three hundred dollars ($27,300.00).

For salaries of judges and clerks of election, twenty-eight thousand one hundred sixteen dollars ($28,116.00).

For rent of registration offices and polling places, six thousand six hundred dollars ($6,600.00).

58 For printing, stationery, office expenses, furniture, and for making maps and seals, seven thousand dollars ($7,000.00).

For ballot-boxes, booths, signs, delivering, returning and storing booths, three thousand two hundred fifty dollars ($3,250.00).

For advertising and postage, two thousand two hundred dollars ($2,200.00).

For court costs in matter of election, three hundred dollars ($300.00).

For bills unpaid at the beginning of the fiscal year, one thousand eighty-three dollars twenty-five cents ($1,083.25).

Aggregating, seventy-five thousand eight hundred forty-nine dollars, twenty-five cents ($75,849.25).

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Approved August 7, 1899.

59 RESPONDENT'S EXHIBIT "A." J. A. L.

House Bill No. 760.

(Fortieth General Assembly.)

Introduced by Mr. Nesbit.
Read first time and 300 copies ordered printed March 3, 1899.
H. A. NEWMAN, *Chief Clerk.*

An act to provide for the registration of voters in cities now having or which hereafter may have three hundred thousand inhabitants or more; to create the office of election commissioner, provide for his appointment, and define his duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. In all cities of this State now having or which hereafter may have three hundred thousand inhabitants or more there shall be a registration of all the qualified voters, and said registration and the mode of conducting the elections held in such cities shall be governed and controlled as provided herein, and be subject to all the provisions of the other election laws of this State, so far as the same are not inconsistent or in conflict herewith.

SEC. 2. Within thirty days after this act becomes a law, the governor, by and with the advice and consent of the senate, shall appoint for each of such cities and election commissioner, who shall hold his office for the term of four years, and until his successor is commissioned and qualified, and in case of vacancy for any cause the same shall be filled by the governor for the unex-
60 pired term; such commissioner shall be a legal voter, a resident of the State for at least five years, and of such city for a like term, and be of approved integrity and capacity; he shall hold no office, and shall be ineligible to any elective or appointive office during the term of his office; he shall, before entering upon the duties of his said office, take and subscribe an oath to support the Constitution of the United States and of this State, and to demean himself faithfully in office, and give bond to the State in the sum of ten thousand dollars with securities to be approved by the governor, conditioned for the faithful and honest performance of the duties of his said office and the care and preservation of the property thereof. Said oath of office and bond to be filed in the office of the secretary of state. Such election commissioner shall make all necessary rules and regulations, not inconsistent with this act, with reference to the registration of voters and conduct of elections; and shall have charge of and make provisions for all elections, general, special, local, municipal, State and county and of all others of every description, to be held in such city or in any part thereof at any time.

SEC. 3. Such election commissioner shall appoint and commission one deputy election commissioner who shall hold his office during the pleasure of said commissioner, and shall be vested with all the powers and duties of the commissioner during his absence, sickness or inability to perform his duties; and such commissioners shall have the right and may employ additional clerical and other assistance from time to time as may be necessary to promptly and correctly perform the duties of the office. Said deputy election commissioner and employés shall be subject to the same restrictions and take and subscribe like oath as said commissioner, and file the same in the office of the commissioner. Said election commissioner, deputy election commissioner, judges of election and registration are hereby authorized and empowered to administer all oaths and affirmations required in the administration of the duties of their several offices, and in the affairs and business thereof. Said election commissioner shall perform all the duties and take the place of the board of election commissioners of such cities immediately after this act becomes a law. The offices and boards of election commissioners as now constituted and existing in such cities to which this act applies, are hereby abolished, and the commissions of such election commissioners hereby revoked, and all acts and parts of acts inconsistent with this act, in so far as they apply to the cities named herein, are hereby repealed.

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SEC. 4. The office of such election commissioner shall be in the city hall of such city, and shall be kept open for the transaction of the duties and business of said office of election commissioner during business hours. Upon the opening of such office, the officers or other custodians of said property shall, upon demand by said commissioner, turn over to him all books of registration, poll books, tally-sheets, ballot-boxes, form blanks, stationery and property of every description in their hands in any way relating to registration and elections, or connectid therewith in any manner. Said election commissioner shall purchase and provide all necessary ballot-boxes, and all books of registration, poll books, tally-sheets, blanks and stationery of every description with printed headings and certificates and other necessary and proper equipment for the registration of voters and the conduct of such elections, and for every incidental purpose connected therewith; and shall select and appoint the places of registration and also the polling place in each precinct, and cause the same to be fitted up, warmed, lighted and cleaned, and such place or places shall be located in the most public, orderly and convenient portion thereof.

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SEC. 5. Said election commissioner or deputy election commissioner shall have the power and is hereby authorized to register any person or persons in said office of election commissioner, and re-register or transfer any person or persons, whom may have changed their residence from one ward to another ward, or from one precinct to another in any ward, at any time, except on such day or days on which a precinct registration may be held in said city, and except such days as intervene between the completion of the registration herein provided and the next following election;

a change of residence from one place in a precinct to another place or part thereof, shall not necessitate a re-registration or transfer, or deprive the registered voter of his right to vote in said precinct. Such registration of voters by said commissioner shall be done in the same form and manner and in the same books as provided for the registration of voters in the precincts by the judges of election sitting as a board of registration in such precincts.

SEC. 6. It is hereby made the duty of such election commissioner for such cities within six months after taking effect of this act, to divide such cities into election precincts regarding ward lines and composed of compact and contiguous territory, which shall contain as nearly as practicable, four hundred actual voters; and in making such division and establishing such precincts, such commissioner shall take as a basis the poll books of the number of votes cast at the last preceding presidential election. At least six months before each subsequent presidential election the election commissioner may revise and rearrange the precincts and increase or decrease their number on the basis of the votes cast at the previous presidential election for President, making such precincts to contain, as near as practicable, four hundred voters, measured by the
63 vote of such election. The precincts in each ward shall be numbered consecutively.

SEC. 7. After the said commissioner is appointed and qualified, he shall prepare for a new and general registration of voters for the next city election or State election, as the case may be, such registration shall be continued and revised as herein provided.

SEC. 8. Such election commissioner shall, at least sixty days prior to the first city or State election after this act becomes a law, select and choose three electors as judges of election for each precinct in such city; they must be citizens of the United States, and entitled to vote in such precinct at the next election, must be men of good repute and character, be of good understanding and capable, they must reside in the ward in which the precinct for which they are selected to act is situated, and not hold any office or employment under the United States, the State of Missouri or city in which such election is held, and not be candidates for any office at the next ensuing election; two clerks of election for each precinct shall also be selected within the same time by such commissioner, who shall possess the same qualifications as the judges aforesaid. Before entering upon the duties of their offices, each judge and clerk, so appointed, shall take and subscribe to, like oath as that taken and subscribed by the election commissioner, and file the same in the office of election commissioner. Said judges and clerks shall be appointed for a term ending thirty days prior to the next State election after the election at which they were appointed to serve, and shall, during said term, serve as judges and clerks at all special, local or municipal election- in such cities; where a vacancy in the office of judge or clerk shall occur from any cause, said commissioner shall make an appointment as herein provided to fill such vacancy. One of said judges and one of said clerks of election shall belong

—and be a member of the party of opposite politics to said election commissioner.

64 SEC. 9. Such board of registration and election clerks shall first meet in the precinct on Tuesday four weeks preceding the first general city election, or the first general State election, which shall be the first day of registration, shall be on the Saturday following; and the third day, Tuesday, three weeks before such election, which may occur after the appointment of such election commissioner at the place designated by such commissioner. A new general registration shall be made in every year thereafter in which a presidential election occurs, and just prior thereto, the first day of registration in the precinct shall be on Tuesday, four weeks before such election, the second day of registration in the precinct being on Saturday following, and the third day of registration in the precinct, Tuesday, three weeks before such election. Two registry books shall be provided and furnished to each board of registration by the said election commissioner for the purpose of said registration; the headings to the books shall be so prepared that the registry shall be made alphabetically according to the surname of each person applying, but it shall be arranged so that the residence of such person shall appear in the first column. The register shall be ruled, and one name shall be written on each line, but no name shall be written between the lines. Under the column "residence," the name and number of the street, avenue, or other location of the dwelling, if there be a definite number, and if there shall not be a number, such clear and definite description of the place of such dwelling as shall enable it to be readily ascertained. If there shall be more than one house at the number given by the applicant as his place of residence, state in which house he resides, and if there be more than one family residing in said house either the flooor on which he resides or the number or location of the room or rooms occupied by
65 him, whether front or rear—every floor below the level of the street or ground being designated as the basement, the first floor above such level being designated as the first floor, and each floor *floor* above that as the second or such other floor as it may be. Under the column "name," the name of the applicant, writing the surname first, and given or Christian name after in full. Under the column "nativity," the State, county, kingdom, empire or dominion, as the fact stated by the applicant shall be. Under the column "color," the word "white" or "colored," as the fact is. Under the subdivision of the general column "term of residence," the periods, by days, months or years, stated by the applicant in precinct, city and State. Under the column "native," the word "yes;" under the columa "naturalized," the word "yes," according to the fact stated. If the applicant be of foreign birth, and has not been naturalized, but has made a declaration of intention to become a citizen, then under the column "declaration of intention" the word "yes." Under the column "qualified voter," the word "yes" or "no," as the fact shall appear or be determined by the board of registry, it being however, required of them to designate as a qualified voter any male person who, if otherwise qualified,

shall not, at the time of making application, be of age, provided the time when such applicant shall be of the age of twenty-one shall be subsequent to the date of his application, and not later than the day of election immediately following such time of applying, or, if foreign-born, whose declaration of intention to become naturalized will have been made one year before such election. Under the column "date of application" the month, day and year when the applicant presented himself and was adjudged a qualified voter in the election precinct. Under the column "signature," in one of the registers, the applicant shall write his name. If he is unable to write, he shall make his mark after his name is
66 written for him.

SEC. 10. The judges of election aforesaid shall constitute the board of registration in the precinct for which they are appointed. In the registration of votes, said board of registration shall proceed as follows: They shall open the registration office at eight o'clock a. m., and continue in session until nine o'clock p. m. on each of said days. One of the judges shall administer to all persons who shall personally apply to register the following oath or affirmation: You do solemnly swear (or affirm) that you will fully and truly answer all such questions as shall be put to you touching your place of residence, name, place of birth, your qualifications as an elector, and your right as such to register and vote under the laws of this State; so help you God. Each of said clerks of election and one of said judges of election shall have charge of the registry books and shall make the entries therein required by this act, and one of the judges shall ask the questions as to qualifications, and after he is through any of the judges may ask questions. One of the judges of election may, when necessary, relieve one of the clerks from time to time, as necessity may seem to demand, in making entries in said book. The name of every applicant shall be entered in such registry book, and all the facts shall be therein stated, as hereinafter provided, whether he is entitled to vote or not. If it shall be determined by the board of registry that he is not a qualified voter in such precinct, then an entry shall be made in the appropriate column "no," and if qualified, an entry shall be made in the same column, "yes." Unless a majority of the judges shall determine the applicant is a qualified voter he shall be entered as not qualified, subject to the applicant's right of appeal as herein provided. Only such male persons, of the age of twenty-one years, residing in such precinct, as apply personally for such registration, shall
67 be entered in such register; but every applicant who would be twenty-one years of age on the day of the next election, or, if foreign-born, whose declaration of intention to become naturalized will have been made one year before such election, if otherwise qualified, shall be entered on such registers. Every applicant who has commenced to reside in such precinct at least twenty days before such election shall be entered in such registry, and shall be marked "qualified" or "disqualified," as the case may be; but unless, on the day of election, he shall have resided twenty full days in such election precinct, he cannot vote therein, although

otherwise qualified. At the end of each day's registration, each of said judges shall sign his name at the end of the list on each page of the registration books. Any vacancy upon such board of registration on any day of registration by reason of absence, disqualification, refusal to act or otherwise, of any judge or clerk of election, shall be filled by the judge or judges present, and the same oath shall be administered by one of the judges present to such judge or clerk as provided for regular judges and clerks. The judge or clerk so appointed shall be of the same politics as the judge or clerk he succeeds.

SEC. 11. Every male citizen of the United States, and every male person of foreign birth who may have declared his intention to become a citizen of the United States according to law, not less than one year nor more than five years before he offers to vote, who is over the age of twenty-one years, who has resided in the State one year next preceding the election at which he offers to vote, and during the last sixty days of the time shall have resided in the city where such election is held and during the last twenty days of that time in the precinct at which he offers to vote, who has not been convicted of bribery, perjury or other infamous crime, or of
68 a misdemeanor connected with the exercise of the right of suffrage, nor directly interested in any bet or wager depending upon the result of the election, nor an officer, soldier or marine in the regular Army or Navy of the United States, nor while kept at any poor-house or other asylum at public expense, nor while confined in any public prison, shall be entitled to vote at such election, for all officers, State or municipal, made elective by the people, or at other elections held in pursuance of the laws of the State, but shall not vote elsewhere than in the precinct where his name is registered, and whereof he is registered as a resident.

SEC. 12. The election commissioner shall prepare and furnish to the board of registration in each precinct two blank books to be known as "verification lists," each page to be ruled into columns and contain pages sufficient for each street, avenue and alley, in the precinct. During the progress of registration, or immediately thereafter, the clerks of said board shall transfer all the names upon the register to the left-hand page of said "verification lists," arranging them according to the street-, avenues, alleys or courts, beginning with the lowest residence number, and placing them numerically, as nearly as possible, from the lowest up to the highest number. They shall first write the name of such street, avenue, alley or court at the top of the second column and then proceed to transfer the registered names to the page of such "verification lists," headed "registered names," according to the street number as above indicated. On the opposite page, headed "names not registered," the name of the same street, avenue, alley or court shall be written in the second column. If, during either day of registration, a registered voter of the ward shall come before the board of registry and make oath that he believes that any particular person
69 upon said registry is not a qualified voter, such fact shall be noted; and after the completion of such "verification lists,"

such board, or one of said judges, shall make a cross or checked mark in ink opposite such name upon each of said "verification lists." If such judges shall, however, know that any person so complained of is a qualified voter and shall believe that such complaint was only made to vex and harass such qualified voter, then such cross or checked mark shall not be put upon such lists, but shall go upon such list in case any one of the judges desires. Said board of registration shall, before eight o'clock of the following day, return said "verification lists," to the office of such election commissioner.

SEC. 13. The clerks of election are hereby constituted canvassers of the precinct for which they are appointed, and, upon the Wednesday and Thursday following the third day of registration, if so much time shall be required, said two clerks shall, each having one of said "verification lists," go together and canvass such precinct, calling at each dwelling place or each house where any one may reside in such precinct, and each dwelling place as indicated upon said "verification lists," and if they shall find that any person upon their "verification lists," does not reside at the place designated thereby, they shall make a check-mark opposite such name. If, in making any such canvass any person shall refuse to answer questions and give the required information asked for and known to him or her, such person shall be deemed guilty of a misdemeanor, and liable to a penalty not to exceed $50. In making such canvass, such canvassers shall make special inquiry at the residences as designated in the registry and "verification lists," as to all the persons so registered as qualified voters. Three copies thereof shall be made; one copy shall be given to each of said clerks at the close of the third day of registration, and the third copy shall be returned to the election commissioner. Said clerks shall meet at eight o'clock in the forenoon of each day of said canvass, and proceed with such canvass. Each of said clerks shall have one copy of said "verification lists." If either of said clerks shall fail to appear at the place designated by fifteen minutes after eight o'clock on either of said days, the election commissioner shall immediately appoint a clerk, of the same politics, in place of the one absent or failing to act. And such clerk so failing to appear, or refusing to continue or abandoning said canvass, shall be deemed guilty of a misdemeanor, and, on conviction, be punished by imprisonment in the city jail for not less than one month nor more than one year.

SEC. 14. Immediately upon the completion of said canvass, said canvassers, or one of them, shall sign a notice and send the same through the mail to the address given upon the registry and "verification lists," of all persons named therein against whose names they have made check-marks, indicating that they did not reside at such place as before stated, and also to the address of all persons against whose names said registry board or judge of election has placed a check-mark in such "verification lists," which notice shall require such person to appear before the board of registry upon the Saturday following, and to show cause why his name should not be erased

from such registry. Proper blanks and postage stamps shall be furnished for the purpose to said canvassers by the commissioner. A similar notice shall also be served by one of said canvassers either at the time such canvass is being made or before the following Saturday, by leaving the same with the party, if found, or if he be not found at the place designated in such registry and "verification lists," by
71 leaving the same at such address, if there be such place. Such notice, to be sent through the mail, must be mailed not later than 10 o'clock Friday morning of the week of such canvass. Any willful neglect of such canvassers to mail the notice aforesaid to all the parties checked and designated as aforesaid, or to leave the notice aforesaid at the place designated for such person so designated, or to check the name of any person on said "verification lists," transferred from the registry as aforesaid and not found at the place designated, or to transfer all the names from the registry as aforesaid to such "verification lists," as aforesaid, shall be a misdemeanor punishable by imprisonment in the city jail not less than one month nor more than one year. And it shall be the duty of said commissioner, when complaint is made to him, to investigate action of such clerks or canvassers, and to cause them to be punished for such neglect of duty.

SEC. 15. On the Saturday following the Tuesday, three weeks preceding such election, said board of registration shall again meet at the place designated, and the said clerks of election shall meet with them, and they shall remain in session from 10 o'clock a. m. until 10 o'clock p. m. for the sole purpose of revising their registry; and no new names shall be added. Said canvassers, or one of them, shall make out a list of the names of parties checked and designated as aforesaid, and to whom such notice has been sent, given or left with the address, stating that notice was mailed to each of said parties at the places designated on such lists, on or prior to 10 o'clock a. m. of the previous Friday, and that notice was also personally left at the said address of each of said parties named in said list so attached, if there be any such address. If any person to whom such notice has been sent shall appear before the board of registration during that
72 session, said board of registration shall further examine him on oath, and also swear such canvassers, and hear him or them upon the question, and if, after such examination and hearing the majority of said board are of the opinion that such person is not a qualified voter in such precinct, they shall mark the word "yes" under the column of the registry marked "erase," and shall also draw a line in ink under his name; which, in case of any registration, shall indicate that the name of such person is erased from the register, and shall not be entitled to vote unless his name be restored as herein provided. If any person to whom notice has been sent because his declaration of intention to become naturalized has been made more than five years before the next election, shall appear before said board at such session, he shall show in the same manner as in the case of original registration that he has become naturalized, otherwise his name shall be erased from the register. In making correction of entries as to residence and naturalization

a line shall be drawn through the former entries, the proper entries made, and the word "corrected," with the date, written in the column headed "remarks." During the last hours of said session, if any person so notified to appear at such session shall not appear and show cause why his name should not be erased from such register, the same shall be erased. Either of said clerks shall have the power and right of both in the matter pertaining to such canvass, except that both are required to go together to make such canvass. The "verification lists," aforesaid after the final revision, shall be at once returned by the board of registration to the office of the election commissioner. If any person, already registered, shall appear before said board at such session and makes oath that he has removed to another place in the same precinct, said board, if they believe him, shall not erase his name, but shall make
73 the correction to his residence in the books of registration.

SEC. 16. Any voter or voters in the ward containing such precinct may make application in wr-ting before said board of registration at the session mentioned in the next preceding section, to have any name upon such register of any precinct erased, and of which application, the person making the same shall give the person whose name he seeks to erase due notice in writing or otherwise, at least one day before the day of said session. If, upon hearing the application, the board of registration conclude to erase the name they shall so note it on the register. Such person may appear before the board of appeals for the purpose of reinstating his name on the register of voters, presenting from the board of registration a certificate of his rejection and briefly the reason therefor, giving the precinct and ward.

SEC. 17. At the end of the last session provided for, the said board of registration and said clerks shall compare and correct the registers aforesaid, and make them correspond and agree; and said judges shall then, immediately following the last name on each page of the register, sign their names so that no other name can be added without discovery, and shall return the two registers to the possession of the election commissioner; thereupon the said commissioner shall at once cause copies to be made of such registers, of all the names upon the same, with the address and arranged according to the streets, avenues, or alleys, commencing with the lowest number, and arranging the same in order according to street numbers, and shall then cause such precinct register, under such arrangement, to be printed in sufficient numbers to meet all demands; and upon application, a copy of the same shall be given to any person in such precinct. Said registers in the office of the election commissioners, shall be public records and open to
74 public inspection.

SEC. 18. Every general registration shall be made in the same manner and in conformity with the directions herein. At every general registration, every person desiring registration shall appear in person and make application under oath, as in the case of the first registration herein provided. The same form and blanks and methods of proceeding shall be had before and by the

board of registry, and by the canvassers, and by and before the judges of election and election clerks, and by the election commissioners in every subsequent registration, as is directed herein for the first registration and election following the same. If any special election, occurring in a portion of such city only, or which is to fill a vacancy occurring in a single office, there shall not be a general revision of the registry.

SEC. 19. At every election held in such cities between the general registrations above referred to, the last general registration shall be used, and for that purpose the board of registration shall meet on Tuesday, three weeks preceding such election, and on the Saturday following, and shall hold a session from 8 o'clock a. m. until 10 o'clock p. m. on each day, and names may be added to the register in the same way, upon sworn applications as in the case of a general registration, and all the other forms and requirements are to be observed as provided with reference to general registration, both as regards the canvass after registration, the revision of the registration and otherwise. At every election held in such cities between the time this act becomes a law and the next general registration provided for herein, the registry books of qualified voters in such cities at the last general city or State election, and used in said election as the registry of qualified voters of such cities, and the registry of qualified voters under section 5 of this act, together with the registry of qualified voters, made as provided in this section, shall be the registry of qualified voters of such city used and in force for such elections. New books of registry shall be prepared and furnished as provided in section 9 of this act by said election commissioner for the registration required to be made in every presidential year by this act; and the registry and other books no longer required, or used, shall be kept and preserved in the office of the election commissioner.

SEC. 20. Any voter of the precinct shall be permitted to be present at the place of registration in said precinct, and shall have the right to challenge, any applicant who applies to be registered; but if the board is satisfied that such person is a qualified voter, he must be so registered; if denied the right to be registered as a qualified voter in such precinct, he may make and sign an application in writing and file the same with the election commissioner, to be heard and considered by the board of appeals, as in other cases provided.

SEC. 21. Two justices of the peace of such city, of opposite politics to be designated and selected by the election commissioner, and said election commissioner shall, on Thursday, Friday and Saturday of the week prior to the week in which such general or presidential election is to be held, sit as a board of appeals, to hear such application and appeals, as shall be made to be placed upon the registry of voters of any particular precinct of persons who applied for registration and were refused by the board of registration, or had their names stricken from the registry by said board. Said board of appeals may also register as qualified voters, such persons

as may make application, who failed to appear before the
76 board of registration because of sickness, forgetfulness, absence from the city or other reasonable cause, at the time of precinct registration.

SEC. 22. It shall be the duty of such election commissioner to give ten days' notice in two daily newspapers of such cities, of opposite politics, of the time and place of registration in each precinct of the city, and on the day preceding any election, have delivered the two registers of said precinct, the ballot-box, pool books, verification lists, and necessary blanks and stationery, packages of ballots and key to box, at his residence in such precinct.

SEC. 23. The election polls shall be open at 6 o'clock in the morning, and continued open until seven o'clock in the afternoon of the same day, at which time they shall be closed. No judge or clerk shall absent himself to exceed five minutes at any one time until the ballots are all cast and counted, and returns made thereof. If any judge or clerk shall not be present after the expiration of fifteen minutes from the time to open the polls, or be disqualified or refuse to act, the judge or judges present shall fill the place of such absent judge or clerk, or vacancy by selecting a person of the same political party as the judge or clerk absent. One of the judges shall administer to such judge or clerk the oath required of the judge or clerk originally appointed, and such appointee perform like duties and be subject to the same punishment and penalties as any other judge or clerk. Any judge or clerk who shall willfully absent himself from the polls on election day, without good cause, shall be guilty of a misdemeanor, and subject to a fine of five hundred dollars. And if such judge or clerk shall willfully detain any register or poll book or ballot, and not cause them to be produced at the polling place at the opening of the polls, or for fifteen minutes thereafter, he shall be guilty of a misdemeanor, and, on conviction, be
77 imprisoned not less than three months nor more than one year in the city jail, or fined not less than $200 nor more than $1,000.

SEC. 24. Before voting begins the ballot-box shall be empty, and it shall be opened and shown to those present to be empty, and not be removed from public view from the time when shown to be empty until after the close of the polls. It shall be locked and the key delivered to one of the judges and shall not again be opened until the close of the polls. The judges of election shall each be held guilty of a misdemeanor if such ballot-box shall not be kept constantly in public view during the progress of the election, unless it shall be shown by the judge that he protested against such obstruction of the view of the ballot-box, and was overruled, by the majority of the judges. If any obstruction shall be, prior to or during such election, interposed so that all who desire cannot constantly see such ballot-box, it shall be the duty of such judges to remove such obstruction on request of any voter of the precinct.

SEC. 25. Each of the clerks of the election shall keep a poll book which contains a column headed "number," another headed "residence," and another headed "names of voters." The name and

street and number of the residence of such voter shall be entered upon each of the poll books by the clerks, in regular succession, under the proper headings, and the number of such voter, in the order in which he voted, placed opposite the name in the column headed "number."

SEC. 26. One of said judges of election shall receive the ballot from the voter, and shall announce his residence and name in a loud voice, and shall write on the back of said ballot the number of the same, in the order in which it was received, which number shall also be placed opposite the name of the voter in the poll books, in the column headed "number," and another judge shall
78 put the vote in the ballot-box in the presence of the voter and the judges and clerks, and in plain view of the public. The judge or clerk having charge of the registry shall then, in a column prepared thereon, in the same line of the name of the voter, mark "voted," or the letter "V." If such person so registered shall be challenged as disqualified, the party challenging shall assign his reason therefor, and thereupon one of said judges shall administer to him an oath to answer questions, and he shall be questioned by said judge or judges touching such cause — challenge, and touching any other cause of his disqualification, and may also be questioned by the person challenging him in regard to his qualifications and identity, but if a majority of the judges are of the opinion that he is the person so registered and a qualified voter, his vote shall then be received accordingly. The vote of no one shall be received by said judges whose name does not appear upon the books of registration as a qualified voter.

SEC. 27. Said judges of election shall have authority to keep the peace and to cause any person to be arrested for any breach of the peace or for any breach of the election laws, or for any interference with the progress of such election or of the canvass of the ballots, and it shall be the duty of all officers of the law present to obey the order of such judges of election. At every registration and election, each of the political parties shall have the right to designate and keep a challenger at each place of registration, revision of registration and voting, who shall be assigned such position inside the polling or registration booth, as will enable him to see each person as he offers to register or vote, and who shall be protected, in the discharge of his duty by the judges of election. Two persons of each political party, represented on the ballot, of good character and standing may be admitted, by the judges, into the polling
79 place to be present during the canvass of the votes and the making of the returns.

SEC. 28. As soon as the polls of an election shall be finally closed, the judges of election, in their several precincts, shall immediately, and at the same place of the election poll, proceed to canvass the vote so cast. Such canvass shall not be adjourned or postponed until it shall be fully completed, nor until the statements herein required to be made by the judges and clerks shall be made out and signed by them. The judges of election shall have the right to station one or more police officers or other peace officers, at

such entrance to the room where such canvass is begun or about to take place, to exclude noisy and disorderly persons, and to keep the peace.

SEC. 29. The judges of election shall first count the whole number of ballots in the box. If the ballots shall be found to exceed the number of names entered upon each of the poll books, they shall reject the ballots, if any, found folded inside of a ballot; and if the ballots and the poll list do not agree after such rejection, they shall reject all ballots not numbered, and no ballot not so numbered shall be counted. The ballots so rejected shall be enclosed in an envelope marked "rejected ballots," and returned with the ballot-boxes to the election commissioner; and the ballots or poll lists agreeing or being made to agree in this way, the board shall proceed to count the votes in the following manner: Said judges shall open the ballots and place those which contain the same names together, so that the several kinds shall be in separate piles, or on separate files. Each of the judges shall examine the separate files which are on, or supposed to be alike, and exclude from such files any which may have a name or an erasure, or in any manner shall be different from the other of such file. One of said judges shall then take one file of the kind of ballots
80 which contain the same name and count them by the tens carefully examining each name of each of said ballots. Said judge shall then pass the ten ballots aforesaid to other judges, who shall count them in the same manner, and call the names of the persons named in the ten ballots, and the offices for which they are designated, and the poll clerks shall tally ten votes for each of such persons. When they shall have gone through such file of ballots containing the same name by tens in that way, and when the clerks shall have tallied all the votes by ten for each of said persons they shall then take up the next pile of ballots containing the same names, and shall count them by tens in the same way, and shall call the names of the persons named in said ballots and the offices for which they are designated, and the clerks shall tally the vote by tens for each of said persons in the same manner. When the counting of each file of ballots which contain the same names shall be completed, the clerks shall compare their tallies together and ascertain the total number of ballots of that kind so canvassed and when they agree upon the number, one of them shall announce it in a loud voice. The said judges shall then canvass the other kind of ballots which do not correspond, those containing names partly from one kind of ballots and partly from another, being those usually called "split tickets," and those from which the names of the person proper to be voted for on such ballots has been omitted or erased, usually called "scratch tickets." They shall be canvassed separately by one of the judges, which judge shall call each name to the clerks and the office for which it is designated, and the clerks making tally of the same. When all the ballots are canvassed in this manner, the clerks shall compare their tallies together, and ascertain the total number of votes received by each candidate,
81 and when they agree upon the number, one of them shall

announce in a loud voice the number of votes received by each candidate on each of the kinds of ballots containing his name.

SEC. 30. Whenever any proposition is submitted to a vote of the people, and is printed or written upon the same ticket with the names of candidates for an office, the names, together with such proposition, shall be canvassed in the following manner: All the ballots shall be first separated into three piles, the first pile containing all the ballots in favor of such proposition; the second pile containing all the ballots against such proposition; and the third pile containing all the ballots not mentioning such proposition, or being neither for nor against such proposition. Each of the judges shall then examine each pile and see that the separation has been properly made. Then the first pile shall be counted by tens and the result announced to the clerks who shall tally the same by tens; and so the second pile shall be counted, announced and tallied, and likewise the third pile; and the clerks shall announce the number of votes for, and the number of votes against, such proposition. The ballots for or against any proposition submitted shall always be canvassed, counted and tallied before the names of candidates for any office are canvassed, counted or tallied. If the tally-sheets and returns should contain no heading for any proposition submitted, it shall be the duty of the clerks to write into such tally-sheets and return the headings necessary in order to keep a correct tally and to make a correct and accurate return, and it shall be the duty of the clerks and judges of election to make a true count and correct return of all votes upon any such proposition, and certify the same to the election commissioner, as provided herein in other cases.

82 SEC. 31. The said judges of election shall make two statements of the result of the canvass, one of which shall be written or partly written and partly printed in each of the poll books used at such election. Each of these statements shall contain a caption stating the day on which, and the number of the election precinct and the ward, and city in relation to which such statement shall be made, and the time of opening and closing of the polls of such precinct. It shall also contain a statement showing the whole number of votes given for each person, designating the office for which they were given, which statement shall be written or partly written and partly printed in words at length; and in case a proposition of any kind has been submitted to a vote at such election, such statement shall also show the number of votes cast for or against such proposition, written out or partly written and partly printed in words at length, and at the end thereof a certificate that such statement is correct in all respects, which certificate and each sheet of paper forming part of the statement, shall be subscribed by the said judges and election clerks. If any judge or election clerk shall decline to sign such returns, he shall state his reason therefor, in writing, and a copy thereof signed by himself shall be enclosed in an envelope which shall then be securely sealed, and each of the judges and each of the election clerks shall write his name across every fold at which the envelope, if unfastened, could be opened.

And the envelope shall be directed on the outside to the election commissioner. Each set of tallies shall also be signed by the election clerks and judges of election, and shall also be enclosed in an envelope, securely sealed and signed and directed on the outside of envelope to said election commissioner. On the outside of envelope shall be endorsed whether it contains the statement of the votes cast or the tallies, and for what precinct and ward.

83 SEC. 32. The poll books which contain the statement of returns shall be placed in the ballot-box and the ballot-box shall then be locked and the key removed; whereupon said judges of election shall all write their names upon a strip of paper of sufficient length for the following purposes: Said strip of paper, after the signing of their names thereon by said judges, shall then be pasted over the keyhole of the said box and extending upward to the upper lid of the box and carried for some distance over the top, and it shall be placed in such a way that the signatures of said judges shall extend across the place of the opening of the lid of the box, so that when the box is opened it shall tear such paper and destroy the signatures written thereon, and when the key shall be inserted in the keyhole it will tear the paper so pasted over the keyhole. Such paper shall be fastened with some adhesive material as not to permit the removal of such slip of paper without defacing it.

SEC. 33. The judge shall fold in two folds and string closely upon a string of wire, all ballots counted by them, except those marked "defective," or "rejected," unite the ends of such string or wire in a firm knot, enclose the ballots so strung in an envelope, on which shall be endorsed, in writing or print, the number of the precinct, date on which such election was held and securely seal such envelope, so that it cannot be opened without breaking the seal, and return said ballots, together with the package containing the ballots marked "defective," or "objected," or "rejected," in such sealed package or envelope to the election commissioner. Two of said judges of opposite politics shall, immediately after signing the statement of the result of the canvass and tally-sheets and the sealing of the ballot-box, go to the office of the election commissioner and deliver said ballot-box to said election commissioner, who shall keep the office open until all of said ballot-boxes have been received. Immediately upon receiving said ballot-

84 boxes, said commissioner shall give a receipt therefor and shall place them properly arranged in the order of precinct numbers in boxes which shall be securely locked. Said boxes shall be placed in a vault having a double lock, and said vault shall be locked. Said election commissioner shall securely keep said ballot-boxes for twelve months, not opening or inspecting them nor allowing any one else to do so, except upon order of court in case of contested election, or when it shall be necessary to produce them at the trial of any offense committed under this act. At the end of twelve months after said election, said ballots shall be destroyed: Provided, that if any contest of the election of any officer voted for at such election, or prosecution under this act shall be pending at

the expiration of said time, the said ballots shall not be destroyed until such contest or prosecution be finally determined.

SEC. 34. One of the judges of election shall take charge of said ballot- — and its contents so inclosed and one of the other judges shall receive and hold the key thereto. The other judge shall take a statement of the votes cast into his possession sealed up in an envelope as aforesaid, and one of the clerks shall take a tally-sheet, sealed up in an envelope as aforesaid, and at once the judge having possession of such ballot-box shall deliver the same with the contents as aforesaid to the election commissioner, with the seal unbroken, and shall receive a receipt therefor, and at the same time the judge having possession of the key shall deliver the same to said commissioner and receive a receipt therefor, and the judge having possession of statement and the clerk having possession of tally-sheet, shall each, before twelve o'clock of the next day after such election, deliver the statement and tally-sheet to the said election commissioner, and take a receipt from him therefor. And it shall be the duty of the said election commissioner to receive
85 the same, and to keep, safely under lock and key until ordered to be surrendered as herein provided.

SEC. 35. The said election commissioner, upon the receipt of said ballot-box and key thereto shall note the condition of seal or stamp on said box, and enter the fact touching the same upon a book kept by him, together with the name of the judge who returns such ballot box; he shall thereupon open said ballot-box and remove the poll books containing the returns of the votes cast, and note upon the book their condition, and put them in a secure place under lock and key, to which the public, in no event, shall have access. If any judge or judges or clerk taking ballots, ballot-boxes, statement, tally or poll books, to be delivered to the election commissioner, shall fail to deliver the same to said election commissioner within three hours after the close of the canvass of the votes as aforesaid, or shall fail or refuse to comply with the provisions of this act, he or they shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than $25 nor more than $500, or imprisonment not more than six months, or by both such fine and imprisonment.

SEC. 36. Within eight days after the close of such election — board of appeals aforesaid, who are hereby declared a board of canvassers for such city, shall publicly open all the returns left respectively with the election commissioner, and shall make abstracts of statements of all the votes for governor and lieutenant governor on one sheet; all votes for other State officers on another sheet; all votes for presidential electors on another sheet; all votes for judges of the supreme court on another sheet; all votes for judges of the court of appeals on another sheet; all votes for senators and representatives to the General Assembly on another sheet; all votes for county officers on another sheet; all votes for city officers on another sheet; all votes for any other officer on a separate and appropriate
86 sheet; all votes for, and all votes against any proposition which may be submitted to a vote of the people on another

sheet. It shall be the duty of such board of canvassers to canvass, add up and declare the result of every election held within the boundaries of such city, and transmit an abstract of the same to the secretary of state, or other proper officer, as required by law; and such abstract or results, and a certified copy thereof, shall be treated everywhere within the State, and by all public officers, with the same force and effect as the abstract of votes now authorized by the laws of the State in such cases made and provided.

SEC. 37. The election commissioner shall make out a certificate of election to each person having the highest number of votes for the several offices voted for, including aldermen and members of the municipal assembly, and deliver such certificate of election to the person entitled to it on his application.

SEC. 38. If, upon opening the various returns so made by the board of canvassers aforesaid, there shall be anything to indicate that a change has been made in such returns since signing the same by the judges and clerks of any fraud in any respect touching such returns, it shall then be the duty of said canvassing board to have all the tallies opened and examined. If there shall then be any doubts as to the genuineness of such returns for any precinct, and as to the actual vote as originally returned, and the truth respecting the same remain uncertain, it shall be the duty of said canvassers to examine any person or persons who were present at the time of the proclamation so made by the judges of election in such precinct, about which any doubt may arise, and the board shall be permitted to place such parties or witnesses under oath and examine them touching the same, and it shall be their duty to call
87 such parties who were present at the time of such proclamation to come before them, and a subpœna may be issued by the election commissioner compelling any such witness to come before such board and give their evidence touching the matter; and it shall be the duty of said board to declare the result of the vote in any such precinct in regard to which any question arises, in the vote, in the same manner as it was proclaimed by the judge of election after the canvass by them in such precinct, the result so declared, shall be binding and conclusive, except in case of election contests.

SEC. 39. Any person who shall impersonate an elector or other person, and register or attempt to offer to register the name of such elector or other person, or if any person shall fraudulently register or offer, or attempt to register in or under the name of any other person or in or under any assumed or fictitious name, or in or under any name not his own, or shall register in two election precincts; or having registered in one precinct, shall attempt to register in another, or shall knowingly, by false personation or otherwise, cause or procure, or attempt to procure, the name of any qualified voter in any election precinct to be erased or stricken from any registry of voters of such precinct, made in pursuance of this act, or otherwise as in this act provided; or by force, threat, menace, intimidation, bribery, reward or offer or promise thereof, or other unlawful means, prevent, hinder or delay any person having a legal

right to register or to be registered, from duly exercising such right; or shall solicit, counsel, or induce by unlawful means, any officer of registration, to register any person not entitled to registration in such precinct; or to register any false, assumed or fictitious name, or any name of any person, except as provided in this act, upon conviction, shall be adjudged guilty of felony and punished in the penitentiary not less than two years.

88 SEC. 40. Any person who shall falsely personate any elector, or other person, and vote, or attempt to offer to vote in or upon the name of such elector or other person; or shall vote, or attempt to vote, in or upon the name of any other person, living or dead, or in or upon any assumed or fictitious name, or in or upon any name not his own; or shall knowingly, willfully or fraudulently vote more than once for any candidate for the same office except as authorized by law; or shall vote, or attempt or offer to vote in any election precinct without having a lawful right to vote therein; or vote more than once, or vote in more than one election precinct; or having once voted, shall vote, or attempt to vote again; or shall knowingly, willfully or fraudulently do any unlawful act to secure a right or opportunity to vote for himself or for any other person to vote; or shall by force, threat, menace, intimidation, bribery or reward, or offer or promise thereof, or otherwise unlawfully, either directly or indirectly, influence or attempt to influence any elector in giving his vote; or prevent or hinder, or attempt to prevent or hinder, any qualified voter from freely exercising the right of suffrage; or by any such means induce, or attempt to induce, any such voter to exercise any such right, shall, upon conviction, be guilty of a felony and punished for every such offense by imprisonment in the penitentiary not less than two years.

SEC. 41. Every election commissioner, deputy election commissioner, judge of election, clerk, canvasser, member — board of appeals or other officer, authorized to take part in or perform any duty in relation to any canvass or official statement of the votes cast at any election in any precinct or in any city, who shall make any false canvass of such votes; or shall make, sign, publish or deliver any false return of such election, or any false certificate or state-

89 ment of the result of such election, or who shall deface, destroy or conceal any statement, tally or certificate entrusted to his care or custody, shall, on conviction thereof, be adjudged guilty of a felony, and be punished by imprisonment in the penitentiary not less than two years.

SEC. 42. If any person other than a judge of election, shall at any such election knowingly or willfully put or cause to be put any ballot or ballots, or other paper having the semblance thereof, into any box used at such election for the reception of votes; or if any judge of election shall knowingly and willfully cause or permit any ballot or ballots to be in said box at the opening of the polls, and before the voting shall have commenced; or shall knowingly, willfully or frauduently put any ballot or other pape having the semblance thereof or cause or permit any ballot or other paper having the semblance thereof to be put in any such box at any such

election, unless the same shall be offered by an elector, and his name shall have been found and kept upon the registry as hereinafter provided or who shall be entitled to vote under this; or if any such judge of election or other officer or person, shall, during the canvass of the ballots, in any manner change, substitute or alter any ballot taken from the ballot-box then being canvassed, or from any ballot-box which has not been canvassed; or shall remove any ballot or semblance thereof from, or add any ballot or semblance thereof to, the ballot taken from the ballot-box then being canvassed, or from any ballot-box which has not been canvassed. Every such person shall, upon conviction, be adjudged guilty of a felony, and punished by imprisonment in the penitentiary not less than two years.

SEC. 43. If, at any registration of voters, or on any day of election, or during the canvass of the votes cast thereat, any person shall cause any breach of the peace, or be guilty of any
90 disorderly conduct, violence or threats of violence, whereby any such registration, revision, election or canvass shall be impeded or hindered; or whereby the lawful proceedings of any judge of election, or board of registration, or clerk or other officer of such election or challenger, or person designated to be present at the canvass of any ballots, as herein provided, or interfered with; every such person shall, upon conviction, be adjudged guilty of a misdemeanor, and punished by imprisonment in the county or city jail not less than thirty days nor more than one year.

SEC. 44. It shall be unlawful for any judge of election, clerk or person designated as provided in this act, or any person or persons within the polling place, to electioneer for any candidate, party or proposition. Any violation of this section shall be a misdemeanor, and shall be punished by imprisonment in the county or city jail for not less than ten nor more than ninety days, or by a fine of not less than fifty nor more than one hundred dollars.

SEC. 45. It shall be the duty of such election commissioner to aid in the prosecution of all crimes and offenses against this act, and they shall keep a book in which shall be entered all complaints against persons claimed to be guilty of the violation of this or any law of the State concerning registration and election and when, in the judgment of such election commissioner such offense has probably been committed, it shall be his duty to cause a prosecution to be instituted against such person.

SEC. 46. In such cities, such election commissioner, deputy election commissioner, judges and clerks of election, and clerks and assistants employed by the election commissioner, shall be paid by such city; the election commissioner shall receive a salary of three thousand dollars per year and the deputy election
91 commissioner a salary of two thousand dollars per year, payable monthly, the clerks and assistants employed by the commissioner shall receive a salary of three dollars per day for the time actually employed, payable monthly. All expenses incurred by said election commissioner, and all costs and expenses of registration in such cities shall be paid out of the treasury of such city;

and all printing, binding, books, stationery, etc., shall be paid for in the same manner. All judges and clerks of election, while acting as a board of registration and as judges and clerks of election, and canvassers of registration, under this act, shall be allowed and paid five dollars per day; the justices of the peace acting as a board of appeals shall be allowed and paid five dollars per day for their services, to be paid by such city. Said election commissioner shall audit all the claims of judges and clerks of election, judges and clerks acting as board of registration, and canvassers of registration, and all the other claims under this act, and shall draw a warrant therefor upon such city treasury.

92 RESPONDENT'S EXHIBIT "B."

(Engrossed.)

House Bill No. 760.

Fortieth General Assembly.

Introduced by Mr. Nesbit.

Read first time March 3, 1899, and 300 copies ordered printed.

Read second time March 7, 1899, and referred to the committee on elections.

Reported from the committee on elections with recommendation that the bill do pass with accompanying amendments March 24, 1899.

Taken up for engrossment and laid over informally April 8, 1899.

Taken up, amended; ordered engrossed and printed April 15, 1899.

H. A. NEWMAN, *Chief Clerk.*

An act to provide for the registration of voters in cities now having or which hereafter may have three hundred thousand inhabitants or more; to create the office of election commissioner, provide for his appointment, and define his duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. In all cities of this State now having or which hereafter may have three hundred thousand inhabitants or more there shall be a registration of all the qualified voters, and said registration and the mode of conducting the elections held in such cities shall be governed and controlled as provided herein, and be subject to all the provisions of the other election laws of this State, so far as the same are not inconsistent or in conflict herewith.

93 SEC. 2. Within thirty days after this act becomes a law, the governor, by and with the advice and consent of the senate, shall appoint for each of such cities a board of election commissioners,

to be composed of three (3) members, who shall hold their office for the term of four years, and until their successors are commissioned and qualified. One of said commissioners shall be a member of and belong to the leading party politically opposed to that to which the governor belongs. In making the appointment of commissioners, the governor shall designate the commissioner who shall be chairman of the board of election commissioners of such city. In case of vacancy for any cause in said board, the same shall be filled by the governor for the unexpired term until the assemblying of the next legislature, when the name of said commissioner shall be submitted to the senate by the governor for confirmation, as those of the other commissioners when appointed. Such commissioners shall be legal voters, residents of the State for at least five years and of such city for a like term and be of approved integrity and capacity; they shall hold no other office, and shall be ineligible to any elective or appointive office during their term of office, and shall, before entering upon the duties of their said office take and subscribe an oath to support the Constitution of the United States and of this State, and to demean themselves faithfully in office, and each to give bond to the State in the sum of ten thousand dollars with securities to be approved by the governor, conditioned for the faithful and honest performance of the duties of his said office, and the care and preservation of the property thereof. Said oath of office and bond to be filed in the office of the secretary of state. Said election commissioners shall make all necessary rules and regulations, not inconsistent with this act, with reference to the registration of voters and conduct of elections; and shall have charge of and make provisions for all elections, general, special, local, municipal, State and county and of all others of every description, to be held in such city or in any part thereof, at any time.

SEC. 3. Such election commissioners shall appoint and commission one deputy election commissioner who shall hold his office during the pleasure of said commissioners, and shall be vested with all the powers and duties of the commissioners during their absence, sickness or inability to perform their duties; said deputy election commissioner shall also be the secretary of the board of election commissioners. Such commissioner shall have the right and may employ additional clerical and other assistance from time to time as may be necessary to promptly and correctly perform the duties of the office. Said deputy election commissioner and employés shall be subject to the same restrictions and take and subscribe like oaths as said commissioners, and file the same in the office of the commissioners. Said election commissioners, deputy election commissioners and judges of election and registration are hereby authorized and empowered to administer all oaths and affirmations required in the administration of the duties of their several offices, and in the affairs and business thereof. Said board of election commissioners shall perform all the duties and take the place of the present board of election commissioners of such cities immediately after this act becomes a law. The offices and boards of election commissioners as now constituted and existing in such

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cities to which this act applies are hereby abolished, and the commissions of said election commissioners hereby revoked, and all acts and parts of acts inconsistent with this act, in so far as they apply to the cities named herein, are hereby repealed.

SEC. 4. The office of such board of election commissioners shall be in the city hall of such city, and shall be kept open for the transaction of the duties and business of said office during business hours. Immediately after the appointment of said commissioners and upon the opening of such office, the officers or other custodians of said property shall, upon demand by said commissioners, turn over to them all books of registration, poll books, tally-sheets, ballot-boxes, form blanks, stationery and property of every description in their hands in any way relating to registration and elections, or connected therewith, in any manner. Said election commissioners shall purchase and provide all necessary ballot-boxes, and all books of registration, poll books, tally-sheets, ballots, blanks and stationery of every description with printed headings and certificates and other necessary and proper equipment for the registration of voters and the conduct of such elections, and for every incidental purpose connected therewith; and shall select and appoint the places of registration and also the polling place in each precinct, and cause the same to be fitted up, warmed, lighted and cleaned, and such place or places shall be located in the most public, orderly and convenient portion thereof.

SEC. 5. Said election commissioners and deputy election commissioner shall have the power and are hereby authorized to register any person or persons in said office of election commissioners, and re-register or transfer any person or persons, who may have changed their residence from one ward to another ward, or from one precinct to another in any ward, at any time, except on such day or days on which a precinct registration may be held in said city, and except such days as intervene between the completion of the registration herein provided and the next following election; a change of residence from one place in a precinct to another place or part thereof, shall not necessitate a re-registration or transfer, or deprive the registered voter of his right to vote in said precinct. Such registration of voters shall be done in the same form and manner and in the same books as provided for the registration of voters in the precincts by the judges of election sitting as a board of registration in such precincts.

SEC. 6. It is hereby made the duty of such board of election commissioners for such cities within six months after taking effect of this act, to divide such cities into election precincts regarding ward lines and composed of compact and contiguous territory,
95 which shall contain as nearly as practicable, four hundred actual voters; and in making such division and establishing such precincts, such commissioner shall take as a basis the poll books of the number of votes cast at the last preceding presidential election. At least six months before each subsequent presidential election the election commissioners may revise and rearrange the precincts and increase or decrease their number on the basis of the

votes cast at the previous presidential election for President making such precincts to contain, as near as practicable, four hundred voters, measured by the vote of such election. The precincts in each ward shall be numbered consecutively.

SEC. 7. After the said commissioners are appointed and qualified, they shall prepare for a new and general registration of voters for the next city election or State election, as the case may be, such registration shall be continued and revised as herein provided.

SEC. 8. Such board of election commissioners shall, at least sixty days prior to the first city or State election after this act becomes a law, select and choose three electors as judges of election for each precinct in such city; they must be citizens of the United States, and entitled to vote in such precinct at the next election, must be men of good repute and character, be of good understanding and capable, they must reside in the ward in which the precinct for which they are selected to act is situated, and not hold any office or employment under the United States, the State of Missouri or city in which such election is held, and not be candidates for any office at the next ensuing election; two clerks of election for each precinct shall also be selected within the same time by the commissioners, who shall possess the same qualifications as the judges aforesaid. Before entering upon the duties of their offices, each judge and clerk, so appointed, shall take and subscribe to like oath as that taken and subscribed by the election commissioners, and file the same in the office of election commissioners. Said judges and clerks shall be appointed for a term ending thirty days prior to the next State election after the election at which they were appointed to serve, and shall, during said term, serve as judges and clerks at all special, local or municipal elections in such cities; where a vacancy in the office of judge or clerk shall occur from any cause, said commissioners shall make an appointment as herein provided to fill such vacancy. Two of said judges and one of said clerks of election shall belong to and be members of the party of opposite politics to the other two judges and clerks.

SEC. 9. Such board of registration and election clerks shall first meet in the precinct on Tuesday four weeks preceding the first general city election, or the first general State election, which shall be the first day of registration, and the second day of registration shall be on the Saturday following, and the third day of registration, Tuesday, three weeks before such election. A new general registration shall be made in every year thereafter in which a presidential election
96 occurs, and just prior thereto the first day of registration in the precinct shall be on Tuesday, four weeks before such election, the second day of registration in the precinct being on Saturday following, and the third day of registration in the precinct, Tuesday, three weeks before such election. Two registry books shall be provided and furnished to each board of registration by the said election commissioners for the purpose of said registration; the headings to the books shall be so prepared that the registry shall be made alphabetically according to the surname of each person applying, but it shall be arranged so that the residence of such person

shall appear in the first column. The registry shall be ruled, and one name shall be written on each line, but no name shall be written between the lines. Under the column "residence," the name and number of the street, avenue, or other location of the dwelling, if there be a definite number, and if there shall not be a number, such clear and definite description of the place of such dwelling as shall enable it to be readily ascertained. If there shall be more than one house at the number given by the applicant as his place of residence, state in which house he resides, and if there be more than one family residing in said house either the floor on which he resides, or the number or location of the room or rooms occupied by him, whether front or rear—every floor below the level of the street or ground being designated as the basement, the first floor above such level being designated as the first floor, and each floor above that as the second or such other floor as it may be. Under the column "name," the name of the applicant, writing the surname first, and given or Christian name after in full. Under the column "nativity," the State, county, kingdom, empire or dominion, as the fact stated by the applicant shall be. Under the column "color," the word "white" or "colored," as the fact is. Under the subdivision of the general column "term of residence," the periods, by days, months or years, stated by the applicant in precinct, city and State. Under the column "native," the word "yes;" under the column "naturalized," the word "yes," according to the fact stated. If the applicant be of foreign birth, and has not been naturalized, but has made a declaration of intention to become a citizen, then under the column "declaration of intention" the word "yes." Under the column "qualified voter," the word "yes," or "no," as the fact shall appear or be determined by the board of registry, it being, however, required of them to designate as a qualified voter any male person who, if otherwise qualified, shall not, at the time of making application, be of age, provided the time when such applicant shall be of the age of twenty-one shall be subsequent to the date of his application, and not later than the day of election immediately following such time of applying, or, if foreign-born, whose declaration of intention to become naturalized will have been made one year before such election. Under the column "date of application," the month, day and year
when the applicant presented himself and was adjudged a
97 qualified voter in the election precinct. Under the column
"signature," in one of the registers, the applicant shall write his name. If he is unable to write, he shall make his mark after his name is written for him.

SEC. 10. The judges of election aforesaid shall constitute the board of registration in the precinct for which they are appointed. In the registration of voters, said board of registration shall proceed as follows: They shall open the registration office at eight o'clock a. m., and continue in session until nine o'clock p. m. on each of said days. One of the judges shall administer to all persons who shall personally apply to register the following oath or affirmation: You do solemnly swear (or affirm) that you will fully and truly answer

all such questions as shall be put to you touching your place of residence, name, place of birth, your qualifications as an elector, and your right as such to register and vote under the laws of this State; so help you God. Each of said clerks of election and one of said judges of election shall have charge of the registry books and shall make the entries therein required by this act, and one of the judges shall ask the questions as to qualifications, and after he is through any of the judges may ask questions. One of the judges of election may, when necessary, relieve one of the clerks from time to time, as necessity may seem to demand, in making entries in said books. The name of every applicant shall be entered in such registry books, and all the facts shall be therein stated, as hereinafter provided, whether he is entitled to vote or not. If it shall be determined by the board of registry that he is not a qualified voter in such precinct, then an entry shall be made in the appropriate column "no," and if qualified, an entry shall be made in the same column "yes." Unless a majority of the judges shall determine the applicant is a qualified voter he shall be entered as not qualified, subject to the applicant's right of appeal as herein provided. Only such male persons, of the age of twenty-one years, residing in such precinct, as apply personally for registration, shall be entered in such register; but every applicant who would be twenty-one years of age on the day of the next election, or, if foreign-born, whose declaration of intention to become naturalized will have been made one year before such election, if otherwise qualified, shall be entered on such registers. Every applicant who has commenced to reside in such precinct at least twenty days before such election shall be entered in such registry, and shall be marked "qualified" or "disqualified," as the case may be; but unless, on the day of election, he shall have resided twenty full days in such election precinct, he cannot vote therein, although otherwise qualified. At the end of the day's registration, each of said judges shall sign his name at the end of the list on each page of the registration book. Any vacancy upon such board of registration on any day of registration by reason of absence, disqualification, refusal to act or otherwise, of any judge or clerk of election, shall be filled by the judge or judges present, and the same oath shall be administered by one of the judges present to such judges or clerk as provided for regular judges and clerks. The judge or clerk so appointed shall be of the same politics as the judge or clerk he succeeds.

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SEC. 11. Every male citizen of the United States, and every male person of foreign birth who may have declared his intention to become a citizen of the United States according to law, not less than one year nor more than five years before he offers to vote, who is over the age of twenty-one years, who has resided in the State one year next preceding the election at which he offers to vote, and during the last sixty days of the time shall have resided in the city where such election is held and during the last twenty days of that time in the precinct at which he offers to vote, who has not been convicted of bribery, perjury or other infamous crime, or of a mis-

demeanor connected with the exercise of the right of suffrage, nor directly interested in any bet or wager depending upon the result of the election, nor an officer, soldier or marine in the regular Army or Navy of the United States, nor while kept at any poor-house or other asylum at public expense, nor while confined in any public prison, shall be entitled to vote at such election, for all officers, State or municipal, made elective by the people, or at other elections held in pursuance of the laws of the State, but shall not vote elsewhere than in the precinct where his name is registered, and whereof he is registered as a resident.

SEC. 12. The election commissioners shall prepare and furnish to the board of registration in each precinct two blank books to be known as "verification lists," each page to be ruled into columns, and contain pages sufficient for each street, avenue and alley in the precinct. During the progress of registration, or immediately thereafter, the clerks of said board shall transfer all the names upon the register to the left-hand page of such "verification lists," arranging them according to the street, avenues, alleys or courts, beginning with the lowest residence number, and placing them numerically, as nearly as possible, from the lowest up to the highest number. They shall first write the name of such street, avenue, alley or court at the top of the second column and then proceed to transfer the registered names to the pages of such "verification lists," headed "registered names," according to the street number as above indicated. If, during either day of registration, a registered voter of the ward shall come before the board of registry and make oath that he believes that any particular person upon such registry is not a qualified voter, such fact shall be noted; and after the completion of such "verification lists," such board, or one of said judges, shall make a cross or checked mark in ink opposite such name upon each of said "verification lists." If such judges shall, however, know that any person so complained of is a qualified voter and shall believe that such complaint was only made to vex and harass such qualified voter, then such cross or checked mark shall not be put upon such lists. Said board of registration
99 shall before eight o'clock on the following day, return said "verification lists" to the office of such election commissioners.

SEC. 13. The clerks of election are hereby constituted canvassers of the precinct for which they are appointed, and, upon the Wednesday and Thursday following the third day of registration, if so much time shall be required, said two clerks shall, each having one of said "verification lists," go together and canvass such precinct, calling at each dwelling place or each house where any one may reside in such precinct, and each dwelling place as indicated upon said "verification lists," and if they shall find that any person upon their "verification lists," does not reside at the place designated thereby, they shall make a check-mark opposite such name. If, in making any such canvass, any person shall refuse to answer questions and give the required information asked for and known to him or her, such person shall be deemed guilty of a misdemeanor,

and be liable to a penalty not to exceed $50. In making such canvass, such canvassers shall make special inquiry at the residences as designated in the registry and "verification lists," as to all the persons so registered as qualified voters. Three copies thereof shall be made; one copy shall be given to each of said clerks at the close of the third day of registration, and the third copy shall be returned to the election commissioners. Said clerks shall meet at eight o'clock in the forenoon of each day of said canvass, and proceed with such canvass. Each of said clerks shall have one copy of said "verification lists." If either of said clerks shall fail to appear at the place designated by fifteen minutes after eight o'clock on either of said days, the election commissioner shall immediately appoint a clerk, of the same politics, in place of the one absent or failing to act. And such clerk so failing to appear, or refusing to continue or abandoning said canvass, shall be deemed guilty of a misdemeanor and, on conviction, be punished by imprisonment in the city jail for not less than one month nor more than one year.

SEC. 14. Immediately upon the completion of said canvass, said canvassers, or one of them, shall sign a notice and send the same through the mail to the address given upon the registry and "verification lists," of all persons named therein against whose names they have made check-marks, indicating that they did not reside at such place as before stated, and also to the address of all persons against whose names said registry board or judge of election has placed a check mark in such "verification lists," which notice shall require such person to appear before the board of registry upon the Saturday following, and to show cause why his name should not be erased from such registry. Proper blanks and postage stamps shall be furnished for the purpose to said canvassers by the commissioners. A similar notice shall also be served by one of said canvassers either at the time said canvass is being made or before the following Saturday, by leaving the same with the party, if found, or, if he be not found at the place designated in such registry and "verification lists," by leaving the same at such address, if there be such place. Such notice, to be sent through the mail, must be mailed not later than ten o'clock Friday morning of the week of such canvass. Any willful neglect of such canvassers to mail the notice aforesaid to all the parties checked and designated as aforesaid, or to leave the notice aforesaid at the place designated for such person so designated, or to check the name of any person on said "verification lists," transferred from the registry as aforesaid and not found at the place designated, or to transfer all the names from the registry as aforesaid to such "verification lists," as aforesaid, shall be a misdemeanor, punishable by imprisonment not less than one month nor more than one year. And it shall be the duty of said commissioners, when complaint is made to them, to investigate the action of such clerks or canvassers, and to cause them to be punished for such neglect of duty.

SEC. 15. On the Saturday following the Tuesday, three weeks preceding such election, said board of registration shall again meet at the place designated, and the said clerks of election shall meet

with them, and they shall remain in session from 10 o'clock a. m. until 10 o'clock p. m., for the sole purpose of revising their registry; and no new names shall be added. Said canvassers, or one of them, shall make out a list of the names of parties checked and designated as aforesaid, and to whom such notice has been sent, given or left with the address, stating that notice was mailed to each of said parties at the places designated on such lists, on or prior to 10 o'clock a. m. of the previous Friday, and that notice was also personally left at the said address of each of said parties named in said list so attached, if there be any such address. If any person to whom such notice has been sent shall appear before the board of registration during that session, said board of registration shall further examine him on oath, and also swear such canvassers, and hear him or them upon the question, and if, after such examination and hearing, the majority of said board are of the opinion that such person is not a qualified voter in such precinct, they shall mark the word "yes," under the column of the registry marked "erase," and shall also draw a line in ink under his name; which, in case of any registration, shall indicate that the name of such person is erased from the register, and shall not be entitled to vote unless his name be restored as herein provided. If any person to whom notice has been sent because his declaration of intention to become naturalized has been made more than five years before the next election, shall appear before said board at such session, he shall show in the same manner as in the case of original registration that he has become naturalized, otherwise his name shall be erased from the register. In making correction of entries as to residence and naturalization, a line shall be drawn through the former entries, the proper entries made, and the word "cor-
101 rected," with the date, written in the column headed "remarks." During the last hour of said session, if any person so notified to appear at such session shall not appear and show cause why his name should not be erased from such register, the same shall be erased. Either of said clerks shall have the power and right of both in the matter pertaining to such canvass, except that both are required to go together to make such canvass. The "verification lists" aforesaid, after the final revision, shall be at once returned by the board of registration to the office of the election commissioners. If any person, already registered, shall appear before said board at such session and make oath that he has removed to another place in the same precinct, said board, if they believe him, shall not erase his name, but shall make the correction to his residence in the books of registration.

SEC. 16. Any voter or voters in the ward containing such precinct may make application in writing before said board of registration at the session mentioned in the next preceding section, to have any name upon such register of any precinct erased, and of which application, the person making the same shall give the person whose name he seeks to erase due notice in writing or otherwise, at least one day before the day of said session. If, upon hearing the application the board of registration conclude to erase the name they shall so note it

on the register. Such person may appear before the board of election commissioners for the purpose of reinstating his name on the register of voters, presenting from the board of registration a certificate of his rejection and briefly the reason therefor, giving the precinct and ward.

SEC. 17. At the end of the last session provided for, the said board of registration and said clerks shall compare and correct the registers aforesaid, and make them correspond and agree; and said judges shall then, immediately following the last name on each page of the register, sign their names so that no other name can be added without discovery, and shall return the two registers to the possession of the election commissioners; thereupon the said commissioners shall at once cause copies to be made of such registers, of all the names upon the same, with the address, and arranged according to the streets, avenues or alleys, commencing with the lowest number, and arranging the same in order according to street numbers, and shall then cause such precinct register, under such arrangement, to be printed in sufficient numbers to meet all demands; and upon application, a copy of the same shall be given to any person in such precinct. Said registers in the office of the election commissioners, shall be public records and open to public inspection.

SEC. 18. Every general registration shall be made in the same manner and in conformity with the directions herein. At every general registration, every person desiring registration shall appear in person and make application, under oath, as in the case of the first registration herein provided. The same form and blanks
102 and methods of proceeding shall be had before and by the board of registry, and by the canvassers, and by and before the judges of election and election clerks, and by the election commissioners in every subsequent registration, as is directed herein for the first registration, and election following the same. If any special election, occurring in a portion of such city only, or which is to fill a vacancy occurring in a single office, there shall not be a general revision of the registry.

SEC. 19. At every election held in such cities between the general registrations above referred to, the last general registry shall be used, and for that purpose the board of registration shall meet on Tuesday, three weeks preceding such election, and on the Saturday following, and shall hold a session from 8 o'clock a. m. until 10 o'clock p. m., on each day, and names may be added to the register in the same way, upon sworn applications as in the case of a general registration, and all the other forms and requirements are to be observed as provided with reference to general registration, both as regards the canvass after registration, the revision of the registration and otherwise. At every election held in such cities between the time this act becomes a law and the next general registration provided for herein, the registry books of qualified voters in such cities at the last general city or State election, and used in said election as the registry of qualified voters of such cities, and the registry of qualified voters under section 5 of this act, together with the

registry of qualified voters, made as provided in this section, shall be the registry of qualified voters of such city used and in force for such elections. New books of registry shall be prepared and furnished as provided in section 9 of this act by said election commissioners for the registration required to be made in every presidential year by this act; and the registry and other books no longer required, or used, shall be kept and preserved in the office of the election commissioners.

SEC. 20. Any voter of the precinct shall be permitted to be present at the place of registration in said precinct, and shall have the right to challenge any applicant who applies to be registered; but if the board is satisfied that such person is a qualified voter, he must be so registered; if denied the right to be registered as a qualified voter in such precinct, he may make and sign an application in writing and file the same with the election commissioners, to be heard and considered by the board of appeals, as in other cases provided.

SEC. 21. Said election commissioners shall, on Thursday, Friday and Saturday of the week prior to the week in which such general or presidential election is to be held, sit as a board of appeals, to hear such application- and appeals as shall be made to be placed upon the registry of voters of any particular precinct of persons who applied for registration and were refused by the board of registration, or had their names stricken from the registry by said board. Said board of appeals may also register as qualified voters, such persons as may make application, who failed to appear before
103 the board of registration because of sickness, forgetfulness, absence from the city or other reasonable cause at the time of precinct registration.

SEC. 22. It shall be the duty of such election commissioners to give ten days' notice in two daily newspapers of such cities, of opposite politics, of the time and place of registration in each precinct of the city, and on the day preceding any election, have delivered the two registers of said precinct, the ballot-box, poll books, verification lists, and necessary blanks and stationery, packages of ballots and key to box, to one of said judges of election, at his residence in such precinct.

SEC. 23. The election polls shall be open at 6 o'clock in the morning and continue open until seven o'clock in the afternoon of the same day, at which time they shall be closed. No judge or clerk shall absent himself to exceed five minutes at any one time until the ballots are all cast and counted, and returns made thereof. If any judge or clerk shall not be present after the expiration of fifteen minutes from the time to open the polls, or be disqualified or refuse to act, the judge or judges present shall fill the place of such absent judge or clerk, or vacancy by selecting a person of the same political party as the judge or clerk absent. One of the judges shall administer to such judge or clerk the oath required of the judge or clerk originally appointed, and such appointee perform like duties and be subject to the same punishment and penalties as any other judge or clerk. Any judge or clerk who shall willfully absent himself from the polls on election day, without good

cause, shall be guilty of a misdemeanor, and subject to a fine of five hundred dollars. And if such judge or clerk shall willfully detain any register or poll book or ballot, and not cause them to be produced at the polling place at the opening of the polls, or for fifteen minutes thereafter, he shall be guilty of a misdemeanor, and, on conviction, be imprisoned not less than three months nor more than one year, or fined not less than $200 nor more than $1,000.

SEC. 24. Before voting begins the ballot-box shall be empty, and it shall be opened and shown to those present to be empty, and not be removed from public view from the time when shown to be empty until after the close of the polls. It shall be locked and the key delivered to one of the judges and shall not again be opened until the close of the polls. The judges of election shall each be held guilty of a misdemeanor if such ballot-box shall not be kept constantly in public view during the progress of the election, unless it shall be shown by a judge that he protested against such obstruction of the view of the ballot-box, and was overruled by a majority of the judges. If any obstruction shall be, prior to or during such election, interposed so that all who desire cannot constantly see such ballot-box, it shall be the duty of such judges to remove such obstruction on request of any voter of the precinct.

SEC. 25. Each of the clerks of the election shall keep a poll book which contains a column headed "number," another headed "residence," and another headed "names of voters." The name and
104 street and number of the residence of such voter shall be entered upon each of the poll books by the clerks, in regular succession, under the proper headings, and the number of such voter, in the order in which he voted, placed opposite the name in the column headed "number."

SEC. 26. One of the said judges of election shall receive the ballot from the voter, and shall announce his residence and name in a loud voice, and shall write on the back of said ballot the number of the same, in the order in which it was received, which number shall also be placed opposite the name of the voter in the poll book, in the column headed "number," and another judge shall put the vote in the ballot-box in the presence of the voter and the judges and clerks, and in plain view of the public. The judge or clerk having charge of the registry shall then, in a column prepared thereon, in the same line of the name of the voter, marked "voted," or the letter "V." If such person so registered shall be challenged or disqualified, the party challenging shall assign his reason therefor, and thereupon one of said judges shall administer to him an oath to answer questions, and he shall be questioned by said judge or judges touching such cause of challenge, and touching any other cause of his disqualification, and may also be questioned by the person challenging him in regard to his qualifications and identity, but if a majority of the judges are of the opinion that he is the person so registered and a qualified voter, his vote shall then be received accordingly. The vote of no one shall be received by said judges whose name does not appear upon the books of registration as a qualified voter.

SEC. 27. Said judges of election shall have authority to keep the peace and to cause any person to be arrested for any breach of the peace or for any breach of the election laws, or for any interference with the progress of such election or of the canvass of the ballots, and it shall be the duty of all officers of the law present to obey the order of such judge of election. At every registration and election, each of the political parties shall have a right to designate and keep a challenger at each place of registration, revision of registration and voting, who shall be assigned such position inside the polling or registration booth as will enable him to see each person as he offers to register or vote, and who shall be protected, in the discharge of his duty by the judges of election. Two persons of each political party, represented on the ballot, of good character and standing, may be admitted, by the judges, into the polling place to be present during the canvass of the votes and the making of the returns.

SEC 28. As soon as the polls of an election shall be finally closed, the judges of election, in their several precincts, shall immediately, and at the same place of the election poll, proceed to canvass the votes. Such canvass shall not be adjourned or postponed
105 until it shall be fully completed, nor until the statements herein required to be made by the judges and clerks shall be made out and signed by them. The judges of election shall have the right to station one or more police officers or other peace officers, at such entrance to the room where such canvass is begun or about to take place, to exclude noisy or disorderly persons, and to keep the peace.

SEC. 29. The judges of election shall first count the whole number of ballots in the box. If the ballots shall be found to exceed the number of names entered upon each of the poll books, they shall reject the ballots, if any, found folded inside of a ballot; and if the ballots and the poll list do not agree after such rejection, they shall reject all ballots not numbered, and no ballot not so numbered shall be counted. The ballots so rejected shall be enclosed in an envelope marked "rejected ballots," and returned with the ballot-boxes to the election commissioner; and the ballots or poll lists agreeing or being made to agree in this way, the board shall proceed to count the votes in the following manner: Said judges shall open the ballots and place those which contain the same names together, so that the several kinds shall be in separate piles, or on separate files. Each of the judges shall examine the separate files which are *on*, or supposed to be alike, and exclude from such files any which may have a name or any erasure, or in any manner shall be different from the other of such file. One of said judges shall then take one file of the kind of ballots which contain the same name and count them by the tens, carefully examining each name of each — said ballots. Said judge shall then pass the ten ballots aforesaid to other judges, who shall count them in the same manner, and call the names of the persons named in the ten ballots, and the offices for which they are designated, and the poll clerks shall tally ten votes for each of such persons. When they shall have

gone through such file of ballots containing the same name by tens in that way, and when the clerks shall have tallied all the votes by ten- for each of said persons, they shall then take up the next pile of ballots containing the same names, and shall count them by tens in the same way, and shall call the names of the persons named in the said ballots and the offices for which they are designated, and the clerks shall tally the vote by tens for each of said persons in the same manner. When the counting of each file of ballots which contain the same names shall be completed, the clerks shall compare their tallies together and ascertain the total number of ballots of that kind so canvassed, and when they agree upon the number, one of them shall announce it in a loud voice. The said judges shall then canvass the other kinds of ballots which do not correspond, those containing names partly from one kind of ballots and partly from another, being those usually called "split tickets," and those from which the names of the persons proper to be voted for on such ballots has been omitted or erased, usually called "scratched tickets." They shall be canvassed separately by the judges,
106 and each name called out to the clerks and the office for which it is designated, and the clerks making tally of the same. When all ballots are canvassed in this manner, the clerks shall compare their tallies together, and ascertain the total number of votes received by each candidate, and when they agree upon the number, one of them shall announce in a loud voice the number of votes received by each candidate on each of the kinds of ballots containing his name.

SECTION 30. Whenever any proposition is submitted to a vote of the people, and is printed or written upon the same ticket with the names of the candidates for an office, the names, together with such proposition, shall be canvassed in the following manner: All the ballots shall be first separated into three piles, the first pile containing all the ballots in favor of such proposition; the second pile containing all the ballots against such proposition; and the third pile containing all the ballots not mentioning such proposition, or being neither for nor against such proposition. Each of the judges shall then examine each pile and see that the separation has been properly made. Then the first pile shall be counted by tens and the result announced to the clerks who shall tally the same by tens; and so the second pile shall be counted, announced and tallied, and likewise the third pile; and the clerks shall announce the number of votes for, and the number of votes against, such proposition. The ballots for or against any proposition submitted shall always be canvassed, counted and tallied before the names of candidates for any office are canvassed, counted or tallied. If the tally-sheets and returns should contain no heading for any proposition submitted, it shall be the duty of the clerks to write into such tally-sheets and returns the headings necessary in order to keep a correct tally and to make a correct and accurate return, and it shall be the duty of the clerks and judges of election to make a true count and correct return of all votes upon any such proposition, and certify the same to the election commissioners, as provided herein in other cases.

SEC. 31. The said judges of election shall make two statements of the result of the canvass, one of which shall be written or partly written and partly printed in each of the poll books used at such election. Each of these statements shall contain a caption stating the day on which, and the number of the election precinct and the ward, and the city in relation to which such statement shall be made, and the time of opening and closing of the polls in such precinct. It shall also contain a statement showing the whole number of votes given for each person, designating the office for which they were given, which statement shall be written or partly written and partly printed in words at length; and in case a proposition of any kind has been submitted to a vote at such election, such statement shall also show the number of votes cast for or against such proposition, written out or partly written and partly printed in words at length, and at the end thereof a certificate that such statement is correct in all respects, which certificate and each sheet of paper forming
107 part of the statement, shall be subscribed by the said judges and election clerks. If any judge or election clerk shall decline to sign such returns, he shall state his reason therefor in writing, and a copy thereof signed by himself shall be enclosed in an envelope which shall then be securely sealed, and each of the judges and each of the election clerks shall write his name across every fold at which the envelope, if unfastened, could be opened. And the envelope shall be directed on the outside to the election commissioners. Each set of tallies shall also be signed by the election clerks and judges of election, and shall also be enclosed in an envelope, securely sealed and signed and directed on the outside of envelope to said election commissioners. On the outside of envelope shall be endorsed whether it contains the statement of the votes cast or the tallies, and for what precinct and ward.

SEC. 32. The poll books which contain the statement of returns shall be placed in the ballot-box, and the ballot-box shall then be locked and the key removed; whereupon, said judges of election shall all write their names upon a slip of paper of sufficient length for the following purposes: Said slip of paper, after the signing of their names thereon by the judges, shall then be pasted over the keyhole of the said box and extending upward to the upper lid of the box and carried for some distance over the top, and it shall be placed in such a way that the signatures of said judges shall extend across the place of the opening of the lid of the box, so that when the box is opened it shall tear such paper and destroy such signatures written thereon, and when the key shall be inserted in the keyhole it will tear the paper so pasted over the keyhole. Such paper shall be fastened with some adhesive material and so as not to permit the removal of such slip of paper without defacing it.

SEC. 33. The judges shall fold in two folds and string closely upon a string or wire, all ballots counted by them, except those marked "defective," or "rejected," unite the ends of such string or wire in a firm knot, enclose the ballots so strung in an envelope, on which shall be endorsed, in writing or print, the number of the precinct, date on

which such election was held and securely seal such envelope, so that it cannot be opened without breaking the seal, and return said ballots, together with the package containing the ballots marked "defective" or "objected" or "rejected," in such sealed package or envelope to the election commissioners. Two of said judges of opposite politics shall, immediately after signing the statement of the result of the canvass and tally-sheets and the sealing of the ballot-box, go to the office of the election commissioners and deliver said ballot-box and the key thereto to said election commissioners, who shall keep the office open until all of said ballot-boxes have been received. Immediately upon receiving said ballot-boxes, said commissioners shall give a receipt therefor to said judges, and shall place them properly arranged in the order of precinct numbers in
108 boxes which shall be securely locked. Said boxes shall be placed in a vault having a double lock, and said vault shall be locked. Said election commissioners shall securely keep said ballot-boxes for twelve months nor opening nor inspecting them nor allowing any one else to do so, except upon order of court in case of contested election, or when it shall be necessary to produce them at the trial of an offense committed under this act. At the end of twelve months after said election, said ballots shall be destroyed: Provided, that if any contest of the election of any officer voted for at such election, or prosecution under this act shall be pending at the expiration of said time, the said ballots shall not be destroyed until such contest or prosecution be finally determined.

SEC. 34. Another judge shall take a statement of the votes cast into his possession sealed up in an envelope as aforesaid, and one of the clerks shall take a tally-sheet, sealed up in an envelope as aforesaid, and the judge having possession of statement and the clerk having possession of this sheet, shall each, before twelve o'clock of the next day after such election, deliver the statement and tally-sheet to the said election commissioners, and take a receipt from them therefor. And it shall be the duty of the said election commissioners to receive the same, and to keep safely under lock and key until ordered to be surrendered as herein provided.

SEC. 35. The said election commissioners upon the receipt of said ballot-box and key thereto, shall note the condition of seal or stamp on said box and enter the facts touching the same upon a book kept by them, together with the name of the judges who returns such ballot-box; he shall thereupon open said ballot-box and remove the poll books containing the returns of the votes cast, and note upon the book their condition, and put them in a secure place under lock and key, to which the public, in no event, shall have access. If any judge or judges or clerk taking ballots, ballot-boxes, statement, tally or poll books, to be delivered to the election commissioners, shall fail to deliver the same to said election commissioners within three hours after the close of the canvass of the vote as aforesaid, or shall fail or refuse to comply with the provisions of this act, he or they shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than $25 nor more

than $500, or imprisonment not more than six months, or by both such fine and imprisonment.

SEC. 36. Within eight days after the close of — such board of election commissioners shall publicly open all the returns aforesaid and shall make abstracts of statements of all the votes for governor and lieutenant governor on one sheet; all votes for other State officers on another sheet; all votes for presidential electors on another sheet; all votes for judges of the supreme court on another sheet; all votes for judges of the court of appeals on another sheet; all votes for members of Congress and for senators and representatives to the General Assembly on another sheet; all
109 votes for county officers on another sheet; all votes for city officers on another sheet; anyother officer on a separate and appropriate sheet; all votes for and all votes against any proposition which may be submitted to a vote of the people on another sheet. It shall be the duty of such board of canvassers to canvass, add up and declare the result of every election held within the boundaries of such city, and transmit an abstract of the same to the secretary of state, or other proper officer, as required by law; and such abstract or result, and a certified copy thereof, shall be treated everywhere within the State, and by all public officers, with the same force and effect as the abstract of votes now authorized by the law of the State in such cases made and provided.

SEC. 37. The election commissioners shall make out a certificate of election to each person having the highest number of votes for the several offices voted for, including aldermen and members of the municipal assembly, and deliver such certificate of election to the person entitled to it on his application.

SEC. 38. If, upon opening the various returns so made, there shall be anything to indicate that a change has been made in such returns since signing the same by the judges and clerks of any fraud in any respect touching such returns, it shall then be the duty of the board to have all the tallies opened and examined. If there shall then be any doubts as to the genuineness of such returns for any precinct, and as to the actual vote as originally returned, and the truth respecting the same remain uncertain, it shall be the duty of said canvassers to examine any person or persons who were present at the time of the proclamation so made by the judges of election in such precinct, about which any doubt may arise, and the board shall be permitted to place such parties or witnesses under oath and examine them touching the same, and it shall be their duty to cause such parties who were present at the time of such proclamation to come before them, and a subpœna may be issued by the election commissioner compelling any such witness to come before such board and give their evidence touching the matter; and it shall be the duty of said board to declare the result of the vote in any such precinct in regard to which any question arises, in the vote, in the same manner as it was proclaimed by the judges of election after the canvass by them in such precinct, the result, so declared, shall be binding and conclusive, except in case of election contests.

SEC. 39. Any person who shall impersonate an elector or other person, and register or attempt to offer to register the name of such elector or other person, or if any person shall fraudulently register or offer, or attempt to register in or under the name of any other person or in or under any assumed or fictitious name, or in or under any name not his own, or shall register in two election precincts; or having registered in one precinct, shall attempt to register in another, or shall knowingly, by false personation or otherwise, cause or procure, or attempt to procure, the name of any qualified voter in any election precinct to be erased or stricken from any registry of voters of such precinct, made in pursuance of this act, or otherwise as in this act provided; or by force, threat, menace, intimidation, bribery, reward or offer or promise thereof, or other unlawful means, prevent, hinder or delay any person having a legal right to register or to be registered, from duly exercising such right; or shall solicit, counsel, or induce by unlawful means, any officer of registration to register any person not entitled to registration in such precinct; or to register any false, assumed or fictitious name, or any name of any person, except as provided in this act, upon conviction, shall be adjudged guilty of felony and punished in the penitentiary not less than two years.

SEC. 40. Any person who shall falsely personate an elector, or other person, and vote, or attempt or offer to vote in or upon the name of such elector or other person; or shall vote, or attempt to vote, in or upon the name of any other person, living or dead, or in or upon any assumed or fictitious name, or in or upon any name not his own; or shall knowingly, willfully or fraudulently vote more than once for any candidate for the same office except as authorized by law; or shall vote, or attempt or offer to vote in any election precinct without having a lawful right to vote therein; or vote more than once, or vote in more than one election precinct; or having voted once, shall vote, or attempt to vote again; or shall knowingly, willfully or fraudulently do any unlawful act to secure a right or opportunity to vote for himself or for any other person to vote; or shall by force, threat, menace, intimidation, bribery or reward, or offer or promise thereof, or otherwise unlawfully, either directly or indirectly, influence or attempt to influence any elector in giving his vote; or prevent or hinder, or attempt to prevent or hinder, any qualified voter from freely exercising the right of suffrage; or by any such means induce, or attempt to induce, any such voter to exercise any such right, shall, upon conviction, be guilty of a felony and punished for every such offense by imprisonment in the penitentiary not less than two years.

SEC. 41. Every election commissioner, deputy election commissioner, judge of election, clerk, canvasser or other officer, authorized to take part in or perform any duty in relation to any canvass or official statement of the votes cast at any election in any precinct or in any city, who shall make any false canvass of such votes; or shall make, sign, publish or deliver any false return of such election, or any false certificate or statement of the result of such election, or who shall deface, destroy or conceal any statement, tally or

certificate entrusted to his care or custody, shall, on conviction thereof, be adjudged guilty of felony, and be punished by imprisonment in the penitentiary not less than two years.

SEC. 42. If any person other than a judge of election, shall at any such election knowingly or willfully put or cause to be put any ballot or ballots, or other paper having the semblance thereof, 111 into any box used at such election for the reception of votes; or if any judge of election shall knowingly and willfully cause or permit any ballot or ballots to be in said box at the opening of the polls, and before the voting shall have commenced; or shall knowingly, willfully or fraudulently put any ballot or other paper having the semblance thereof or cause or permit any ballot or other paper having the semblance thereof to be put in any such box at any such election, unless the same shall be offered by an elector, and his name shall have been found and kept upon the registry, as herein provided, or who shall be entitled to vote under this act; or if any such judge of election or other officer or person, shall, during the canvass of the ballots, in any manner change, substitute or alter any ballot taken from the ballot-box then being canvassed, or from any ballot box which has not been canvassed; or shall remove any ballot or semblance thereof from, or add any ballot or semblance thereof to the ballots taken from the ballot-box then being canvassed, or from any ballot-box which has not been canvassed. Every such person shall, upon conviction, be adjudged guilty of a felony, and punished by imprisonment in the penitentiary not less than two years.

SEC. 43. If, at any registration of voters, or on any day of election, or during the canvass of the votes cast thereat, any person shall cause any breach of the peace, or be guilty of any disorderly conduct, violence or threats of violence, whereby any such registration, revision, election or canvass shall be impeded or hindered; or whereby the lawful proceedings of any judge of election, or board of registration, or clerk or other officer of such election or challenger, or person designated to be present at the canvass of any ballots, as herein provided, or interfered with; every such person shall, upon conviction, be adjudged guilty of a misdemeanor, and punished by imprisonment not less than thirty days nor more than one year.

SEC. 44. It shall be unlawful for any judge of election, clerk or person designated as provided in this act, or any person or persons within the polling place to electioneer for any candidate, party or proposition. Any violation of this section shall be a misdemeanor, and shall be punished by imprisonment not less than ten or more than ninety days, or by a fine of not less than fifty nor more than one hundred dollars.

SEC. 45. It shall be the duty of such election commissioners to aid in the prosecution of all crimes and offenses against this act, and they shall keep a book in which shall be entered all complaints against persons claimed to be guilty of the violation of this or any law of the State concerning registration and election, and when, in the judgment of such election commissioners such offense has prob-

ably been committed, it shall be their duty to cause a prosecution to be instituted against such person.

SEC. 46. In all cities not within counties such election commissioners, deputy election commissioners, judges and clerks of
112 election and registration and clerks and assistants employed by the board of election commissioners shall be paid by the city. The members of said boards of election commissioners shall each receive a salary of $2,500 a year, and deputy election commissioner a salary of $2,000 a year, all payable monthly. The assistants and clerks employed by the election commissioners shall each receive a salary of $4.00 per day for the time actually employed, payable monthly. All office and other expenses incurred by said board of election commissioners, and all office and other expenses and all costs and expenses of registration and election in such cities shall be paid out of the city treasury. All printing, binding, books, stationery, etc., shall be paid for in the same manner and contracted for by the board of election commissioners.

SEC. 47. The act of a majority of such board of election commissioners shall in all cases arising under this act be considered as the act of said board of election commissioners.

SEC. 48. Said board of election commissioners shall audit all the claims of the judges of election and of registration and all other claims, expenses and accounts under this act, and shall draw a warrant therefor upon the proper officer.

SEC. 49. All acts and parts of acts inconsistent or in conflict with this act are hereby repealed, and the act entitled "An act to create a board of election commissioners, etc., approved May 31st, 1895," is hereby repealed.

113 RESPONDENT'S EXHIBIT "E."

(Engrossed.)

House Bill No. 760.

Fortieth General Assembly.

Introduced by Mr. Nesbit.

Read first time March 3, 1899, and 300 copies ordered printed.

Read second time March 7, 1899, and referred to the committee on elections.

Reported from the committee on elections with recommendation that the bill do pass with accompanying amendments March 24, 1899.

Taken up for engrossment and laid over informally April 8, 1899.

Taken up, amended; ordered engrossed and printed April 15, 1899.

500 copies ordered printed May 22, 1899.

C. ROACH, *Secretary.*

An act to provide for the registration of voters in cities now having or which hereafter may have three hundred thousand inhabitants or more; to create the office of election commissioner, provide for his appointment and define his duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. In all cities of this State now having or which hereafter may have three hundred thousand inhabitants or more there shall be a registration of all the qualified voters, and said registration and the mode of conducting the elections held in such cities shall be governed and controlled as provided herein, and be subject to all the provisions of the other election laws of this State, so far as the same are not inconsistent or in conflict herewith.

SEC. 2. Within thirty days after this act becomes a law, the governor, by and with the advice and consent of the senate, shall appoint for each of such cities a board of election commissioners, to be composed of three (3) members, who shall hold their office for the term of four years, and until their successors are commissioned and qualified. One of said commissioners shall be a member of and belong to the leading party politically opposed to that to which the governor belongs. In making the appointment of commissioners, the governor shall designate the commissioner who shall be chairman of the board of election commissioners of such city. In case of vacancy for any cause in said board, the same shall be filled by the governor for the unexpired term until the assemblying of the next legislature, when the name of said commissioner shall be submitted to the senate by the governor for confirmation, as those of the other commissioners when appointed. Such commissioners shall be legal voters, residents of the State for at least five years and of such city for a like term and be of approved integrity and capacity; they shall
114 hold no other office, and shall be ineligible to any elective or appointive office during their term of office, and shall, before entering upon the duties of their said office take and subscribe an oath to support the Constitution of the United States and of this State, and to demean themselves faithfully in office, and each to give bond to the State in the sum of ten thousand dollars with securities to be approved by the governor, conditioned for the faithful and honest performance of the duties of his said office, and the care and preservation of the property thereof. Said oath of office and bond to be filed in the office of the secretary of state. Said election commissioners shall make all necessary rules and regulations, not inconsistent with this act, with reference to the registration of voters and conduct of elections; and shall have charge of and make provisions for all elections, general, special, local, municipal, State and county and of all others of every description, to be held in such city or in any part thereof, at any time.

SEC. 3. Such election commissioners shall appoint and commission

one deputy election commissioner who shall hold his office during the pleasure of said commissioners, and shall be vested with all the powers and duties of the commissioners during their absence, sickness or inability to perform their duties; said deputy election commissioner shall also be the secretary of the board of election commissioners. Such commissioner shall have the right and may employ additional clerical and other assistance from time to time as may be necessary to promptly and correctly perform the duties of the office. Said deputy election commissioner and employés shall be subject to the same restrictions and take and subscribe like oaths as said commissioners, and file the same in the office of the commissioners. Said election commissioners, deputy election commissioners and judges of election and registration are hereby authorized and empowered to administer all oaths and affirmations required in the administration of the duties of their several offices, and in the affairs and business thereof. Said board of election commissioners shall perform all the duties and take the place of the present board of election commissioners of such cities immediately after this act becomes a law. The offices and boards of election commissioners as now constituted and existing in such cities to which this act applies are hereby abolished, and the commissions of said election commissioners hereby revoked, and all acts and parts of acts inconsistent with this act, in so far as they apply to the cities named herein, are hereby repealed.

SEC. 4. The office of such board of election commissioners shall be in the city hall of such city, and shall be kept open for the transaction of the duties and business of said office during business hours. Immediately after the appointment of said commissioners and upon the opening of such office, the officers or other custodians of said property shall, upon demand by said commissioners, turn over to them all books of registration, poll books, tally-sheets, ballot-boxes, form blanks, stationery and property of every description in their hands in any way relating to registration and elections, or connected therewith, in any manner. Said election commissioners shall purchase and provide all necessary ballot-boxes, and all books of registration, poll books, tally-sheets, ballots, blanks and stationery of every description with printed headings and certificates and other necessary and proper equipment for the registration of voters and the conduct of such elections, and for every incidental purpose connected therewith; and shall select and appoint the places of registration and also the polling place in each precinct, and cause the same to be fitted up, warmed, lighted and cleaned, and such place or places shall be located in the most public, orderly and convenient portion thereof.

SEC. 5. Said election commissioners and deputy election commissioner shall have the power and are hereby authorized to register any person or persons in said office of election commissioners, and re-register or transfer any person or persons, who may have changed their residence from one ward to another ward, or from one precinct to another in any ward, at any time, except on such day or days on which a precinct registration may be held in said city, and except

such days as intervene between the completion of the registration herein provided and the next following election; a change of residence from one place in a precinct to another place or part thereof, shall not necessitate a re registration or transfer, or deprive the registered voter of his right to vote in said precinct. Such registration of voters shall be done in the same form and manner and in the same books as provided for the registration of voters in the precincts by the judges of election sitting as a board of registration in such precincts.

SEC. 6. It is hereby made the duty of such board of election commissioners for such cities within six months after taking effect of this act, to divide such cities into election precincts regarding ward lines and composed of compact and contiguous territory, which shall contain as nearly as practicable, four hundred actual voters; and in making such division and establishing such precincts, such commissioner shall take as a basis the poll books of the number of votes cast at the last preceding presidential election. At least six months before each subsequent presidential election the election commissioners may revise and rearrange the precincts and increase or decrease their number on the basis of the votes cast at the previous presidential election for President making such precincts to contain, as near as practicable, four hundred voters, measured by the vote of such election. The precincts in each ward shall be numbered consecutively.

SEC. 7. After the said commissioners are appointed and qualified, they shall prepare for a new and general registration of voters for the next city election or State election, as the case may be, such registration shall be continued and revised as herein provided.

SEC. 8. Such board of election commissioners shall, at least
116 sixty days prior to the first city or State election after this act becomes a law, select and choose three electors as judges of election for each precinct in such city; they must be citizens of the United States, and entitled to vote in such precinct at the next election, must be men of good repute and character, be of good understanding and capable, they must reside in the ward in which the precinct for which they are selected to act is situated, and not hold any office or employment under the United States, the State of Missouri or city in which such election is held, and not be candidates for any office at the next ensuing election; two clerks of election for each precinct shall also be selected within the same time by the commissioners, who shall possess the same qualifications as the judges aforesaid. Before entering upon the duties of their offices, each judge and clerk, so appointed, shall take and subscribe to like oath as that taken and subscribed by the election commissioners, and file the same in the office of election commissioners. Said judges and clerks shall be appointed for a term ending thirty days prior to the next State election after the election at which they were appointed to serve, and shall, during said term, serve as judges and clerks at all special, local or municipal elections in such cities; where a vacancy in the office of judge or clerk shall occur from any cause, said commis-

sioners shall make an appointment as herein provided to fill such vacancy. Two of said judges and one of said clerks of election shall belong to and be members of the party of opposite politics to the other two judges and clerks.

SEC. 9. Such board of registration and election clerks shall first meet in the precinct on Tuesday four weeks preceding the first general city election, or the first general State election, which shall be the first day of registration, and the second day of registration shall be on the Saturday following, and the third day of registration, Tuesday, three weeks before such election. A new general registration shall be made in every year thereafter in which a presidential election occurs, and just prior thereto the first day of registration in the precinct shall be on Tuesday, four weeks before such election, the second day of registration in the precinct being on Saturday following, and the third day of registration in the precinct, Tuesday, three weeks before such election. Two registry books shall be provided and furnished to each board of registration by the said election commissioners for the purpose of said registration; the headings to the books shall be so prepared that the registry shall be made alphabetically according to the surname of each person applying, but it shall be arranged so that the residence of such person shall appear in the first column. The register shall be ruled, and one name shall be written on each line, but no name shall be written between the lines. Under the column "residence," the name and number of the street, avenue, or other location of the dwelling, if there be a definite number, and if there shall not be a number, such clear and definite description of the place of such
117 dwelling as shall enable it to be readily ascertained. If there shall be more than one house at the number given by the applicant as his place of residence, state in which house he resides, and if there be more than one family residing in said house either the floor on which he resides, or the number or location of the room or rooms occupied by him, whether front or rear—every floor below the level of the street or ground being designated as the basement, the first floor above such level being designated as the first floor, and each floor above that as the second or such other floor as it may be. Under the column "name," the name of the applicant, writing the surname first, and given or Christian name after in full. Under the column "nativity," the State, county, kingdom, empire or dominion, as the fact stated by the applicant shall be. Under the column "color," the word "white" or "colored," as the fact is. Under the subdivision of the general column "term of residence." the periods, by days, months or years, stated by the applicant in precinct, city and State. Under the column "native," the word "yes;" under the column "naturalized," the word "yes," according to the fact stated. If the applicant be of foreign birth, and has not been naturalized, but has made a declaration of intention to become a citizen, then under the column "declaration of intention" the word "yes." Under the column "qualified voter," the word "yes," or "no," as the fact shall appear or be determined by the board of registry, it being, however, required of them to

designate as a qualified voter any male person who, if otherwise qualified, shall not, at the time of making application be of age, provided the time when such applicant shall be of the age of twenty-one shall be subsequent to the date of his application, and not later than the day of election immediately following such time of applying, or, if foreign-born, whose declaration of intention to become naturalized will have been made one year before such election. Under the column "date of application" the month, day and year when the applicant presented himself and was adjudged a qualified voter in the election precinct. Under the column "signature," in one of the registers, the applicant shall write his name. If he is unable to write, he shall make his mark after his name is written for him.

SEC. 10. The judges of election aforesaid shall constitute the board of registration in the precinct for which they are appointed. In the registration of voters, said board of registration shall proceed as follows: They shall open the registration office at eight o'clock a. m., and continue in session until nine o'clock p. m. on each of said days. One of the judges shall administer to all persons who shall personally apply to register the following oath or affirmation: You do solemnly swear (or affirm) that you will fully and truly answer all such questions as shall be put to you touching your place of residence, name, place of birth, your qualifications as an elector, and your right as such to register and vote under the laws of this State; so help you God. Each of said clerks of election and one of said judges of election shall have charge of the registry books and shall make the
118 entries therein required by this act, and one of the judges shall ask the questions as to qualifications, and after he is through any of the judges may ask questions. One of the judges of election may, when necessary, relieve one of the clerks from time to time, as necessity may seem to demand, in making entries in said books. The name of every applicant shall be entered in such registry books, and all the facts shall be therein stated, as hereinafter provided, whether he is entitled to vote or not. If it shall be determined by the board of registry that he is not a qualified voter in such precinct, then an entry shall be made in the appropriate column "no," and if qualified, an entry shall be made in the same column, "yes." Unless a majority of the judges shall determine the applicant is a qualified voter he shall be entered as not qualified, subject to the applicant's right of appeal as herein provided. Only such male persons, of the age of twenty-one years, residing in such precinct, as apply personally for registration, shall be entered in such register; but every applicant who would be twenty-one years of age on the day of the next election, or, if foreign-born, whose declaration of intention to become naturalized will have been made one year before such election, if otherwise qualified, shall be entered on such registers. Every applicant who has commenced to reside in such precinct at least twenty days before such election shall be entered in such registry, and shall be marked "qualified" or "disqualified," as the case may be; but unless, on the day of election, he shall have resided twenty full days in such

election precinct, he cannot vote therein, although otherwise qualified. At the end of the day's registration, each of said judges shall sign his name at the end of the list on each page of the registration book. Any vacancy upon such board of registration on any day of registration by reason of absence, disqualification, refusal to act or otherwise, of any judge or clerk of election, shall be filled by the judge or judges present, and the same oath shall be administered by one of the judges present to such judges or clerk as provided for regular judges and clerks. The judge or clerk so appointed shall be of the same politics as the judge or clerk he succeeds.

SEC. 11. Every male citizen of the United States, and every male person of foreign birth who may have declared his intention to become a citizen of the United States according to law, not less than one year nor more than five years before he offers to vote, who is over the age of twenty-one years, who has resided in the State one year next preceding the election at which he offers to vote, and during the last sixty days of the time shall have resided in the city where such election is held and during the last twenty days of that time in the precinct at which he offers to vote, who has not been convicted of bribery, perjury or other infamous crime, or of a misdemeanor connected with the exercise of the right of suffrage, nor directly interested in any bet or wager depending upon the result of the election, nor an officer, soldier or marine in the regular
119 Army or Navy of the United States, nor while kept at any poor-house or other asylum at public expense, nor while confined in any public prison, shall be entitled to vote at such election, for all officers, State or municipal, made elective by the people, or at other elections held in pursuance of the laws of the State, but shall not vote elsewhere than in the precinct where his name is registered, and whereof he is registered as a resident.

SEC. 12. The election commissioners shall prepare and furnish to the board of registration in each precinct two blank books to be known as "verification lists," each page to be ruled into columns, and contain pages sufficient for each street, avenue and alley in the precinct. During the progress of registration, or immediately thereafter, the clerks of said board shall transfer all the names upon the register to the left-hand page of such "verification lists," arranging them according to the street, avenues, alleys or courts, beginning with the lowest residence number, and placing them numerically, as nearly as possible, from the lowest up to the highest number. They shall first write the name of such street, avenue, alley or court at the top of the second column and then proceed to transfer the registered names to the pages of such "verification lists," headed "registered names," according to the street number as above indicated. If, during either day of registration, a registered voter of the ward shall come before the board of registry and make oath that he believes that any particular person upon such registry is not a qualified voter, such fact shall be noted; and after the completion of such "verification lists," such board, or one of said judges, shall make a cross or checked mark in ink opposite such name upon each of said "verification lists." If such judges

shall, however, know that any person so complained of is a qualified voter and shall believe that such complaint was only made to vex and harass such qualified voter, then such cross or checked mark shall not be put upon such lists. Said board of registration shall before eight o'clock on the following day, return said "verification lists" to the office of such election commissioners.

SEC. 13. The clerks of election are hereby constituted canvassers of the precinct for which they are appointed, and, upon the Wednesday and Thursday following the third day of registration, if so much time shall be required, said two clerks shall, each having one of said "verification lists," go together and canvass such precinct, calling at each dwelling place or each house where any one may reside in such precinct, and each dwelling place as indicated upon said "verification lists," and if they shall find that any person upon their "verification lists," does not reside at the place designated thereby, they shall make a check-mark opposite such name. If, in making any such canvass, any person shall refuse to answer questions and give the required information asked for and known to him or her, such person shall be deemed guilty of a misdemeanor, and be liable to a penalty not to exceed $50. In making such can-
120 vass, such canvassers shall make special inquiry at the residences as designated in the registry and "verification lists," as to all the persons so registered as qualified voters. Three copies thereof shall be made; one copy shall be given to each of said clerks at the close of the third day of registration, and the third copy shall be returned to the election commissioners. Said clerks shall meet at eight o'clock in the forenoon of each day of said canvass, and proceed with such canvass. Each of said clerks shall have one copy of said "verification lists." If either of said clerks shall fail to appear at the place designated by fifteen minutes after eight o'clock on either of said days, the election commissioner shall immediately appoint a clerk, of the same politics, in place of the one absent or failing to act. And such clerk so failing to appear, or refusing to continue or abandoning said canvass, shall be deemed guilty of a misdemeanor, and, on conviction, be punished by imprisonment in the city jail for not less than one month nor more than one year.

SEC. 14. Immediately upon the completion of said canvass, said canvassers, or one of them, shall sign a notice and send the same through the mail to the address given upon the registry and "verification lists," of all persons named therein against whose names they have made check-marks, indicating that they did not reside at such place as before stated, and also to the address of all persons against whose names said registry board or judge of election has placed a check-mark in such "verification lists," which notice shall require such person to appear before the board of registry upon the Saturday following, and to show cause why his name should not be erased from such registry. Proper blanks and postage stamps shall be furnished for the purpose to said canvassers by the commissioners. A similar notice shall also be served by one of said canvassers, either at the time said canvass is being made or before the following Saturday, by leaving the same with the party, if found, or, if he

be not found at the place designated in such registry and "verification lists," by leaving the same at such address, if there be such place. Such notice, to be sent through the mail, must be mailed not later than ten o'clock Friday morning of the week of such canvass. Any willful neglect of such canvassers to mail the notice aforesaid to all the parties checked and designated as aforesaid, or to leave the notice aforesaid at the place designated for such person so designated, or to check the name of any person on said "verification lists," transferred from the registry as aforesaid and not found at the place designated, or to transfer all the names from the registry as aforesaid to such "verification lists," as aforesaid, shall be a misdemeanor, punishable by imprisonment not less than one month nor more than one year. And it shall be the duty of said commissioners, when complaint is made to them, to investigate the action of such clerks or canvassers, and to cause them to be punished for such neglect of duty.

121 SEC. 15. On the Saturday following the Tuesday, three weeks preceding such election, said board of registration shall again meet at the place designated, and the said clerks of election shall meet with them, and they shall remain in session from 10 o'clock a. m. until 10 o'clock p. m., for the sole purpose of revising their registry; and no new names shall be added. Said canvassers, or one of them, shall make out a list of the names of parties checked and designated as aforesaid, and to whom such notice has been sent, given or left with the address, stating that notice was mailed to each of said parties at the places designated on such lists, on or prior to 10 o'clock a. m. of the previous Friday, and that notice was also personally left at the said address of each of said parties named in said list so attached, if there be any such address. If any person to whom such notice has been sent shall appear before the board of registration during that session, said board of registration shall further examine him on oath, and also swear such canvassers, and hear him or them upon the question, and if, after, such examination and hearing, the majority of said board are of the opinion that such person is not a qualified voter in such precinct, they shall mark the word "yes," under the column of the registry marked "erase," and shall also draw a line in ink under his name; which, in case of any registration, shall indicate that the name of such person is erased from the register, and shall not be entitled to vote unless his name be restored as herein provided. If any person to whom notice has been sent because his declaration of intention to become naturalized has been made more than five years before the next election, shall appear before said board at such session, he shall show in the same manner as in the case of original registration that he has become naturalized, otherwise his name shall be erased from the register. In making correction of entries as to residence and naturalization, a line shall be drawn through the former entries, the proper entries made, and the word "corrected," with the date, written in the column headed "remarks." During the last hour of said session, if any person so notified to appear at such session shall not appear and show cause why

his name should not be erased from such register, the same shall be erased. Either of said clerks shall have the power and right of both in the matter pertaining to such canvass, except that both are required to go together to make such canvass. The "verification lists" aforesaid, after the final revision, shall be at once returned by the board of registration to the office of the election commissioners. If any person, already registered, shall appear before said board at such session and makes oath that he has removed to another place in the same precinct, said board; if they believe him, shall not erase his name, but shall make the correction to his residence in the books of registration.

SEC. 16. Any voter or voters in the ward containing such precinct may make application in writing before said board of registra-
122 tion at the session mentioned in the next preceding section, to have any name upon such register of any precinct erased, and of which application, the person making the same shall give the person whose name he seeks to erase due notice in writing or otherwise, at least one day before the day of said session. If, upon hearing the application, the board of registration conclude to erase the name they shall so note it on the register. Such person may appear before the board of election commissioners for the purpose of reinstating his name on the register of voters, presenting from the board of registration a certificate of his rejection and briefly the reason therefor, giving the precinct and ward.

SEC. 17. At the end of the last session provided for, the said board of registration and said clerks shall compare and correct the registers aforesaid, and make them correspond and agree; and said judges shall then, immediately following the last name on each page of the register, sign their names so that no other name can be added without discovery, and shall return the two registers to the possession of the election commissioners; thereupon the said commissioners shall at once cause copies to be made of such registers, of all the names upon the same, with the address and arranged according to the streets, avenues, or alleys, commencing with the lowest number, and arranging the same in order according to street numbers, and shall then cause such precinct register, under such arrangement, to be printed in sufficient numbers to meet all demands; and upon application, a copy of the same shall be given to any person in such precinct. Said registers in the office of the election commissioners, shall be public records and open to public inspection.

SEC. 18. Every general registration shall be made in the same manner and in conformity with the directions herein. At every general registration, every person desiring registration shall appear in person and make application under oath, as in the case of the first registration herein provided. The same form and blanks and method of proceeding shall be had before and by the board of registry, and by the canvassers, and by and before the judges of election and election clerks, and by the election commissioners in every subsequent registration, as is directed herein for the first registration and election following the same. If any

special election, occurring in a portion of such city only, or which is to fill a vacancy occurring in a single office, there shall not be a general revision of the registry.

SEC. 19. At every election held in such cities between the general registrations above referred to, the last general registry shall be used, and for that purpose the board of registration shall meet on Tuesday, three weeks preceding such election, and on the Saturday following, and shall hold a session from 8 o'clock a. m. until 10 o'clock p. m., on each day, and names may be added to the register in the same way, upon sworn applications as in the case of a general registration, and all the other forms and requirements are to be observed as provided with reference to general registration, both as regards
123 the canvass after registration, the revision of the registration and otherwise. At every election held in such cities between the time this act becomes a law and the next general registration provided for herein, the registry books of qualified voters in such cities at the last general city or State election, and used in said election as the registry of qualified voters of such cities, and the registry of qualified voters under section 5 of this act, together with the registry of qualified voters, made as provided in this section, shall be the registry of qualified voters of such city used and in force for such elections. New books of registry shall be prepared and furnished as provided in section 9 of this act by said election commissioners for the registration required to be made in every presidential year by this act; and the registry and other books no longer required, or used, shall be kept and preserved in the office of the election commissioners.

SEC. 20. Any voter of the precinct shall be permitted to be present at the place of registration in said precinct, and shall have the right to challenge any applicant who applies to be registered; but if the board is satisfied that such person is a qualified voter, he must be so registered; if denied the right to be registered as a qualified voter in such precinct, he may make and sign an application in writing and file the same with the election commissioners, to be heard and considered by the board of appeals, as in other cases provided.

SEC. 21. Said election commissioners shall, on Thursday, Friday and Saturday of the week prior to the week in which such general or presidential election is to be held, sit as a board of appeals, to hear such applications and appeals as shall be made to be placed upon the registry of voters of any particular precinct of persons who applied for registration and were refused by the board of registration, or had their names stricken from the registry by said board. Said board of appeals may also register as qualified voters, such persons as may make application, who failed to appear before the board of registration because of sickness, forgetfulness, absence from the city or other reasonable cause at the time of precinct registration.

SEC. 22. It shall be the duty of such election commissioners to give ten days' notice in two daily newspapers of such cities, of opposite politics, of the time and place of registration in each precinct of the city, and on the day preceding any election, have delivered the two registers of said precinct, the ballot-box, poll books, verification

lists, and necessary blanks and stationery, packages of ballots and key to box, to one of said judges of election, at his residence in such precinct.

SEC. 23. The election polls shall be open at 6 o'clock in the morning and continued open until seven o'clock in the afternoon of the same day, at which time they shall be closed. No judge or clerk shall absent himself to exceed five minutes at any one time until the ballots are all cast and counted, and returns made thereof.

If any judge or clerk shall not be present after the expira-
124 tion of fifteen minutes from the time to open the polls, or be disqualified or refuse to act, the judge or judges present shall fill the place of such absent judge or clerk, or vacancy by selecting a person of the same political party as the judge or clerk absent. One of the judges shall administer to such judge or clerk the oath required of the judge or clerk originally appointed, and such appointee perform like duties and be subject to the same punishment and penalties as any other judge or clerk. Any judge or clerk who shall willfully absent himself from the polls on election day, without good cause, shall be guilty of a misdemeanor, and subject to a fine of five hundred dollars. And if such judge or clerk shall willfully detain any register or poll book or ballot, and not cause them to be produced at the polling place at the opening of the polls, or for fifteen minutes thereafter, he shall be guilty of a misdemeanor, and, on conviction, be imprisoned not less than three months nor more than one year, or fined not less than $200 nor more than $1,000.

SEC. 24. Before voting begins the ballot-box shall be empty, and it shall be opened and shown to those present to be empty, and not be removed from public view from the time when shown to be empty until after the close of the polls. It shall be locked and the key delivered to one of the judges and shall not again be opened until the close of the polls. The judges of election shall each be held guilty of a misdemeanor if such ballot-box shall not be kept constantly in public view during the progress of the election, unless it shall be shown by a judge that he protested against such obstruction of the view of the ballot-box, and was overruled by the majority of the judges. If any obstruction shall be, prior to or during such election, interposed so that all who desire cannot constantly see such ballot-box, it shall be the duty of such judges to remove such obstruction on request of any voter of the precinct.

SEC. 25. Each of the clerks of the election shall keep a poll book which contains a column headed "number," another headed "residence," and another headed "names of voters." The name and street and number of the residence of such voter shall be entered upon each of the poll books by the clerks, in regular succession, under the proper headings, and the number of such voter, in the order in which he voted, placed opposite the name in the column headed "number."

SEC. 26. One of the said judges of election shall receive the ballot from the voter, and shall announce his residence and name in a loud voice, and shall write on the back of said ballot the number of

the same, in the order in which it was received, which number shall also be placed opposite the name of the voter in the poll book, in the column headed "number," and another judge shall put the vote in the ballot-box in the presence of the voter and the judges and clerks, and in plain view of the public. The judge or clerk having charge of the registry shall then, in a column prepared thereon, in the same line of the name of the voter, marked
125 "voted," or the letter "V." If such person so registered shall be challenged or disqualified, the party challenging shall assign his reason therefor, and thereupon one of said judges shall administer to him an oath to answer questions, and he shall be questioned by said judge or judges touching such cause of challenge, and touching any other cause of his disqualification, and may also be questioned by the person challenging him in regard to his qualifications and identity, but if a majority of the judges are of the opinion that he is the person so registered and a qualified voter, his vote shall then be received accordingly. The vote of no one shall be received by said judges whose name does not appear upon the books of registration as a qualified voter.

SEC. 27. Said judges of election shall have authority to keep the peace and to cause any person to be arrested for any breach of the peace or for any breach of the election laws, or for any interference with the progress of such election or of the canvass of the ballots, and it shall be the duty of all officers of the law present to obey the order of such judge of election. At every registration and election, each of the political parties shall have a right to designate and keep a challenger at each place of registration, revision of registration and voting, who shall be assigned such position inside the polling or registration booth as will enable him to see each person as he offers to register or vote, and who shall be protected, in the discharge of his duty by the judges of election. Two persons of each political party, represented on the ballot, of good character and standing, may be admitted, by the judges, into the polling place to be present during the canvass of the votes and the making of the returns.

SEC 28. As soon as the polls of an election shall be finally closed, the judges of election, in their several precincts, shall immediately, and at the same place of the election poll, proceed to canvass the votes. Such canvass shall not be adjourned or postponed until it shall be fully completed, nor until the statements herein required to be made by the judges and clerks shall be made out and signed by them. The judges of election shall have the right to station one or more police officers or other peace officers, at such entrance to the room where such canvass is begun or about to take place, to exclude noisy or disorderly persons, and to keep the peace.

SEC. 29. The judges of election shall first count the whole number of ballots in the box. If the ballots shall be found to exceed the number of names entered upon each of the poll books, they shall reject the ballots, if any, found folded inside of a ballot; and if the ballots and the poll list do not agree after such rejection, they shall

reject all ballots not numbered, and no ballot not so numbered shall be counted. The ballots so rejected shall be enclosed in an envelope marked "rejected ballots," and returned with the ballot-boxes to the election commissioner; and the ballots or poll lists agreeing or being made to agree in this way, the board shall proceed to
126 count the votes in the following manner: Said judges shall open the ballots and place those which contain the same names together, so that the several kinds shall be in separate piles, or on separate files. Each of the judges shall examine the separate files which are *on*, or supposed to be alike, and exclude from such files any which may have a name or an erasure, or in any manner shall be different from the other of such file. One of said judges shall then take one file of the kind of ballots which contain the same name and count them by the tens, carefully examining each name of *of* each — said ballots. Said judge shall then pass the ten ballots aforesaid to other judges, who shall count them in the same manner and call the names of the persons named in the ten ballots, and the offices for which they are designated, and the poll clerk- shall tally ten votes for each of such persons. When they shall have gone through such file of ballots containing the same name by tens in that way, and when the clerks shall have tallied all the votes by ten- for each of said persons, they shall then take up the next pile of ballots containing the same names, and shall count them by tens in the same way, and shall call the names of the persons named in the said ballots and the offices for which they are designated, and the clerks shall tally the vote by tens for each of said persons in the same manner. When the counting of each file of ballots which contain the same names shall be completed, the clerks shall compare their tallies together and ascertain the total number of ballots of that kind so canvassed, and when they agree upon the number, one of them shall announce it in a loud voice. The said judges shall then canvass the other kinds of ballots which do not correspond, those containing names partly from one kind of ballots and partly from another, being those usually called "split tickets," and those from which the names of the persons proper to be voted for on such ballots has been omitted or erased, usually called "scratch tickets." They shall be canvassed separately by the judges, and each name called out to the clerks and the office for which it is designated, and the clerks making tally of the same. When all ballots are canvassed in this manner, the clerks shall compare their tallies together, and ascertain the total number of votes received by each candidate, and when they agree upon the number, one of them shall announce in a loud voice the number of votes received by each candidate on each of the kinds of ballots containing his name.

SECTION 30. Whenever any proposition is submitted to a vote of the people, and is printed or written upon the same ticket with the names of the candidates for an office, the names, together with such proposition, shall be canvassed in the following manner: All the ballots shall be first separated into three piles, the first pile containing all the ballots in favor of such proposition; the second pile

containing all the ballots against such proposition; and the third pile containing all the ballots not mentioning such proposition, or being neither for nor against such proposition. Each of the judges
127 shall then examine each pile and see that the separation has been properly made. Then the first pile shall be counted by tens and the result announced to the clerks who shall tally the same by tens; and so the second pile shall be counted, announced and tallied, and likewise the third pile; and the clerks shall announce the number of votes for, and the number of votes against, such proposition. The ballots for or against any proposition submitted shall always be canvassed, counted and tallied before the names of candidates for any office are canvassed, counted or tallied. If the tally-sheets and returns should contain no heading for any proposition submitted, it shall be the duty of the clerks to write into such tally-sheets and returns the headings necessary in order to keep a correct tally and to make a correct and accurate return, and it shall be the duty of the clerks and judges of election to make a true count and correct return of all votes upon any such proposition, and certify the same to the election commissioners, as provided herein in other cases.

SEC. 31. The said judges of election shall make two statements of the result of the canvass, one of which shall be written or partly written and partly printed in each of the poll books used at such election. Each of these statements shall contain a caption stating the day on which, and the number of the election precinct and the ward, and the city in relation to which such statement shall be made, and the time of opening and closing of the polls in such precinct. It shall also contain a statement showing the whole number of votes given for each person, designating the office for which they were given, which statement shall be written or partly written and partly printed in words at length; and in case a proposition of any kind has been submitted to a vote at such election, such statement shall also show the number of votes cast for or against such proposition, written out or partly written and partly printed in words at length, and at the end thereof a certificate that such statement is correct in all respects, which certificate and each sheet of paper forming part of the statement, shall be subscribed by the said judges and election clerks. If any judge or election clerk shall decline to sign such returns, he shall state his reason therefor in writing, and a copy thereof signed by himself shall be enclosed in an envelope which shall then be securely sealed, and each of the judges and each of the election clerks shall write his name across every fold at which the envelope, if unfastened, could be opened. And the envelope shall be directed on the outside to the election commissioners. Each set of tallies shall also be signed by the election clerks and judges of election, and shall also be enclosed in an envelope, securely sealed and signed and directed on the outside of envelope to said election commissioners. On the outside of envelope shall be endorsed whether it contains the statement of the votes cast or the tallies, and for what precinct and ward.

SEC. 32. The poll books which contain the statement of returns

shall be placed in the ballot-box, and the ballot-box shall
128 then be locked and the key removed; whereupon, said judges of election shall all write their names upon a slip of paper of sufficient length for the following purposes: Said slip of paper, after the signing of their names thereon by the judges, shall then be pasted over the keyhole of the said box and extending upward to the upper lid of the box and carried for some distance over the top, and it shall be placed in such a way that the signatures of said judges shall extend across the place of the opening of the lid of the box, so that when the box is opened it shall tear such paper and destroy such signatures written thereon, and when the key shall be inserted in the keyhole it will tear the paper so pasted over the keyhole. Such paper shall be fastened with some adhesive material and so as not to permit the removal of such slip of paper without defacing it.

SEC. 33. The judges shall fold in two folds and string closely upon a string or wire, all ballots counted by them, except those marked "defective," or "rejected," unite the ends of such string or wire in a firm knot, enclose the ballots so strung in an envelope, on which shall be endorsed, in writing or print, the number of the precinct, date on which such election was held and securely seal such envelope, so that it cannot be opened without breaking the seal, and return said ballots, together with the package containing the ballots marked "defective" or "objected" or "rejected," in such sealed package or envelope to the election commissioners. Two of said judges of opposite politics shall, immediately after signing the statement of the result of the canvass and tally-sheets and the sealing of the ballot-box, go to the office of the election commissioners and deliver said ballot-box and the key thereto to said election commissioners, who shall keep the office open until all of said ballot-boxes have been received. Immediately upon receiving said ballot-boxes, said commissioners shall give a receipt therefor to said judges, and shall place them properly arranged in the order of precinct numbers in boxes which shall be securely locked. Said boxes shall be placed in a vault having a double lock, and said vault shall be locked. Said election commissioners shall securely keep said ballot-boxes for twelve months, nor opening nor inspecting them nor allowing any one else to do so, except upon order of court in case of contested election, or when it shall be necessary to produce them at the trial of an offense committed under this act. At the end of twelve months after said election, said ballots shall be destroyed: Provided, that if any contest of the election of any officer voted for at such election, or prosecution under this act shall be pending at the expiration of said time, the said ballots shall not be destroyed until such contest or prosecution be finally determined.

SEC. 34. Another judge shall take a statement of the votes cast into his possession sealed up in an envelope as aforesaid, and one of the clerks shall take a tally-sheet, sealed up in an envelope as afore-
129 said, and the judge having possession of statement and the clerk having possession of this sheet, shall each, before twelve o'clock of the next day after such election, deliver the state-

ment and tally-sheet to the said election commissioners, and take a receipt from them therefor. And it shall be the duty of the said election commissioners to receive the same, and to keep safely under lock and key until ordered to be surrendered as herein provided.

SEC. 35. The said election commissioners upon the receipt of said ballot-box and key thereto shall note the condition of seal or stamp on said box and enter the facts touching the same upon a book kept by them, together with the name of the judges who returns such ballot-box; he shall thereupon open said ballot-box and remove the poll books containing the returns of the votes cast, and note upon the book their condition, and put them in a secure place under lock and key, to which the public, in no event, shall have access. If any judge or judges or clerk taking ballots, ballot-boxes, statement, tally or poll books, to be delivered to the election commissioners, shall fail to deliver the same to said election commissioners within three hours after the close of the canvass of the vote as aforesaid, or shall fail or refuse to comply with the provisions of this act, he or they shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than $25 nor more than $500, or imprisonment not more than six months, or by both such fine and imprisonment.

SEC. 36. Within eight days after the close of — such board of election commissioners shall publicly open all the returns aforesaid and shall make abstracts of statements of all the votes for governor and lieutenant governor on one sheet; all votes for other State officers on another sheet; all votes for presidential electors on another sheet; all votes for judges of the supreme court on another sheet; all votes for judges of the court of appeals on another sheet; all votes for members of Congress and for senators and representatives to the General Assembly on another sheet; all votes for county officers on another sheet; all votes for city officers on another sheet; any other officer on a separate and appropriate sheet; all votes for and all votes against any proposition which may be submitted to a vote of the people on another sheet. It shall be the duty of such board of canvassers to canvass, add up and declare the result of every election held within the boundaries of such city, and transmit an abstract of the same to the secretary of state, or other proper officer, as required by law; and such abstract or result, and a certified copy thereof, shall be treated everywhere within the State, and by all public officers, with the same force and effect as the abstract of votes now authorized by the law of the State in such cases made and provided.

SEC. 37. The election commissioners shall make out a certificate of election to each person having the highest number of votes for the several offices voted for, including aldermen and members of the municipal assembly, and deliver such certificate of election to the person entitled to it on his application.

130 SEC. 38. If, upon opening the various returns so made, there shall be anything to indicate that a change has been made in such returns since signing the same by the judges and clerks of any fraud in any respect touching such returns, it shall then be the duty

of the board to have all the tallies opened and examined. If there shall then be any doubts as to the genuineness of such returns for any precinct, and as to the actual vote as originally returned, and the truth respecting the same remain uncertain, it shall be the duty of said canvassers to examine any person or persons who were present at the time of the proclamation so made by the judges of election in such precinct, about which any doubt may arise, and the board shall be permitted to place such parties or witnesses under oath and examine them touching the same, and it shall be their duty to cause such parties who were present at the time of such proclamation to come before them, and a subpœna may be issued by the election commissioner compelling any such witness to come before such board and give their evidence touching the matter; and it shall be the duty of said board to declare the result of the vote in any such precinct in regard to which any question arises, in the vote, in the same manner as it was proclaimed by the judges of election after the canvass by them in such precinct, the result, so declared, shall be binding and conclusive, except in case of election contests.

SEC. 39. Any person who shall impersonate an elector or other person, and register or attempt to offer to register the name of such elector or other person, or if any person shall fraudulently register or offer, or attempt to register in or under the name of any other person or in or under any assumed or fictitious name, or in or under any name not his own, or shall register in two election precincts; or having registered in one precinct, shall attempt to register in another, or shall knowingly, by false personation or otherwise, cause or procure, or attempt to procure, the name of any qualified voter in any election precinct to be erased or stricken from any registry of voters of such precinct, made in pursuance of this act, or otherwise as in this act provided; or by force, threat, menace, intimidation, bribery, reward or offer or promise thereof, or other unlawful means, prevent, hinder or delay any person having a legal right to register or to be registered, from duly exercising such right; or shall solicit, counsel, or induce by unlawful means, any officer of registration or register any person not entitled to registration in such precinct; or to register any false, assumed or fictitious name, or any name of any person, except as provided in this act, upon conviction, shall be adjudged guilty of felony and punished — in the penitentiary not less than two years.

SEC. —. Any person who shall falsely personate an elector, or other person, and vote, or attempt or offer to vote in or upon the name of such elector or other person; or shall vote, or attempt to
131 vote, in or upon the name of any other person, living or dead, or in or upon any assumed or fictitious name, or in or upon any name not his own; or shall knowingly, willfully or fraudulently vote more than once for any candidate for the same office except as authorized by law; or shall vote, or attempt or offer to vote in any election precinct without having a lawful right to vote therein; or vote more than once, or vote in more than one election precinct; or having voted once, shall vote, or attempt to vote again; or shall

knowingly, willfully or fraudulently do any unlawful act to secure a right or opportunity to vote for himself or for any other person to vote; or shall by force, threat, menace, intimidation, bribery or reward, or offer or promise thereof, or otherwise unlawfully, either directly or indirectly, influence or attempt to influence any elector in giving his vote; or prevent or hinder, or attempt to prevent or hinder, any qualified voter from freely exercising the right of suffrage; or by any such means induce, or attempt to induce, any such voter to exercise any such right, shall, upon conviction, be guilty of a felony and punished for every such offense by imprisonment in the penitentiary not less than two years.

SEC. 41. Every election commissioner, deputy election commissioner, judge of election, clerk, canvasser or other officer, authorized to take part in or perform any duty in relation to any canvass or official statement of the votes cast at any election in any precinct or in any city, who shall make any false canvass of such votes; or shall make, sign, publish or deliver any false return of such election, or any false certificate or statement of the result of such election, or who shall deface, destroy or conceal any statement, tally or certificate entrusted to his care or custody, shall, on conviction thereof, be adjudged guilty of felony, and be punished by imprisonment in the penitentiary not less than two years.

SEC. 42. If any person other than a judge of election, shall at any such election knowingly or willfully put or cause to be put any ballot or ballots, or other paper having the semblance thereof, into any box used at such election for the reception of votes; or if any judge of election shall knowingly and willfully cause or permit any ballot or ballots to be in said box at the opening of the polls, and before the voting shall have commenced; or shall knowingly, willfully or fraudulently put any ballot or other paper having the semblance thereof or cause or permit any ballot or other paper having the semblance thereof to be put in any such box at any such election, unless the same shall be offered by an elector, and his name shall have been found and kept upon the registry, as herein provided or who shall be entitled to vote under this act; or if any such judge of election or other officer or person, shall, during the canvass of the ballots, in any manner change, substitute or alter any ballot taken from the ballot-box then being canvassed, or from any ballot-box which has not been canvassed; or shall remove any ballot or semblance thereof from, or add any ballot or sem-
132 blance thereof to the ballots taken from the ballot-box then being canvassed, or from any ballot-box which has not been canvassed. Every such person shall, upon conviction, be adjudged guilty of a felony, and punished by imprisonment in the penitentiary not less than two years.

SEC. 43. If, at any registration of voters, or on any day of election, or during the canvass of the votes cast thereat, any person shall cause any breach of the peace, or be guilty of any disorderly conduct, violence or threats of violence, whereby any such registration, revision, election or canvass shall be impeded or hindered; or whereby the lawful proceedings of any judge of election, or board

of registration, or clerk or other officer of such election or challenger, or person designated to be present at the canvass of any ballots, as herein provided, or interfered with; every such person shall, upon conviction, be adjudged guilty of a misdemeanor, and punished by imprisonment not less than thirty days nor more than one year.

SEC. 44. It shall be unlawful for any judge of election, clerk or person designated as provided in this act, or any person or persons within the polling place to electioneer for any candidate, party or proposition. Any violation of this section shall be a misdemeanor, and shall be punished by imprisonment not less than ten or more than ninety days, or by a fine of not less than fifty nor more than one hundred dollars.

SEC. 45. It shall be the duty of such election commissioners to aid in the prosecution of all crimes and offenses against this act, and they shall keep a book in which shall be entered all complaints against persons claimed to be guilty of the violation of this or any law of the State concerning registration and election, and when, in the judgment of such election commissioners such offense has probably been committed, it shall be their duty to cause a prosecution to be instituted against such person.

SEC. 46. In all cities not within counties such election commissioners, deputy election commissioners, judges and clerks of election and registration and clerks and assistants employed by the board of election commissioners shall be paid by the city. The members of said boards of election commissioners shall each receive a salary of $2,500 a year, and deputy election commissioner a salary of $2,000 a year, all payable monthly. The assistants and clerks employed by the election commissioners shall each receive a salary of $4.00 per day for the time actually employed, payable monthly. All office and other expenses incurred by said board of election commissioners, and all office and other expenses and all costs and expenses of registration and election in such cities shall be paid out of the city treasury. All printing, binding, books, stationery, etc., shall be paid for in the same manner and contracted for by the board of election commissioners.

SEC. 47. The act of a majority of such board of election commissioners shall in all cases arising under this act be considered as the act of said board of election commissioners.

133 SEC. 48. Said board of election commissioners shall audit all the claims of the judges of election and of registration and all other claims, expenses and accounts under this act, and shall draw a warrant therefor upon the proper officer.

SEC. 49. All acts and parts of acts inconsistent or in conflict with this act are hereby repealed, and the act entitled, "An act to create a board of election commissioners, etc.," approved May 31st, 1895, is hereby repealed.

RESPONDENT'S EXHIBIT "F."

STATE OF MISSOURI, *ss:*

I, Alexander A. Lesueur, secretary of state of the State of Missouri, hereby certify that the annexed pages contain a full, true, and complete copy of an act of the General Assembly of the State of Missouri entitled "An act to provide for the registration of voters in cities now having or which hereafter may have three hundred thousand inhabitants or more; to provide for the creation of a board of election commissioners, provide for its appointment and define its duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein, and to repeal all acts and parts of acts in conflict or inconsistent herewith," approved June 19, 1899, as appears by comparing the same with the original roll of said act now on file, as the law directs, in this office.

In testimony whereof I hereunto set my hand and affix the great seal of the State of Missouri. Done at office, in the city of Jefferson, this twentieth day of June, A. D. 1899.

[SEAL.] A. A. LESUEUR,
Secretary of State.

Elections in Cities of 300,000 *Inhabitants or More.*

An act to provide for the registration of voters in cities now having or which hereafter may have three hundred thousand inhabitants or more; to provide for the creation of a board of election commissioners, provide for its appointment, and define its duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein, and to repeal all acts and parts of acts in conflict or inconsistent herewith.

SECTION 1. In all cities of this State now having or which hereafter may have three hundred thousand inhabitants or more there shall be a registration of all the qualified voters, and said registration and the mode of conducting the elections held in such cities shall be governed and controlled as provided herein, and be subject to all the provisions of the other election laws of this State, so far as the same are not inconsistent or in conflict herewith.

134 SEC. 2. Within thirty days after this act becomes a law, the governor, by and with the advice and consent of the senate, shall appoint for each of such cities a board of election commissioners, to be composed of three (3) members, who shall hold their office for the term of four years, and until their successors are commissioned and qualified. One of said commissioners shall be a member of and belong to the leading party politically opposed to that to which the governor belongs. In making the appointment of commissioners, the governor shall designate the commissioner

who shall be chairman of the board of election commissioners of such city. In case of vacancy for any cause in said board, the same shall be filled by the governor for the unexpired term until the assembling of the next legislature, when the name of said commissioner shall be submitted to the senate by the governor for confirmation, as those of the other commissioners when appointed. Such commissioners shall be legal voters, residents of the State for at least five years and of such city for a like term and be of approved integrity and capacity; they shall hold no other office, and shall be ineligible to any elective or appointive office during their term of office, and shall, before entering upon the duties of their said office, take and subscribe an oath to support the Constitution of the United States and of this State, and to demean themselves faithfully in office, and each to give bond to the State in the sum of ten thousand dollars with securities to be approved by the governor, conditioned for the faithful and honest performance of the duties of his said office, and the care and preservation of the property thereof. Said oath of office and bond to be filed in the office of the secretary of state. Said election commissioners shall make all necessary rules and regulations, not inconsistent with this act, with reference to the registration of voters and conduct of elections; and shall have charge and make provisions for all elections, general, special, local, municipal, State and county and of all others of every description, to be held in such city or in any part thereof, at any time.

SEC. 3. Such election commissioners shall appoint and commission one deputy election commissioner who shall hold his office during the pleasure of said commissioners, and shall be vested with all the powers and duties of the commissioners during their absence, sickness or inability to perform their duties; said deputy election commissioner shall also be the secretary of the board of election commissioners. Such commissioner shall have the right and may employ additional clerical and other assistance from time to time as may be necessary to promptly and correctly perform the duties of the office. Said deputy election commissioner and employés shall be subject to the same restrictions and take and subscribe like oaths as said commissioners, and file the same in the office of the commissioner. Said election commissioners, deputy election commissioner and judges of election and registration are hereby authorized and empowered to administer all oaths and affirmations required in the administration of the duties of their several offices, and in the affairs and business thereof. Said board of election commissioners shall perform all the duties and take the place of the present board of election commissioners of such cities immediately after this act
135 becomes a law. The offices and boards of election commissioners as now constituted and existing in such cities to which this act applies, are hereby abolished, and the commissions of such election commissioners hereby revoked, and all acts and parts of acts inconsistent with this act, in so far as they apply to the cities named herein, are hereby repealed.

SEC. 4. The office of such board of election commissioners shall be in the city hall of such city, and shall be kept open for

the transaction of the duties and business of said office during business hours. Immediately after the appointment of said commissioners and upon the opening of such office, the officers or other custodians of said property shall, upon demand by said commissioners, turn over to them all books of registration, poll books, tally-sheets, ballot-boxes, form blanks, stationery and property of every description in their hands in any way relating to registration and elections, or connected therewith, in any manner. Said election commissioners shall purchase and provide all necessary ballot-boxes, and all books of registration, poll books, tally-sheets, ballots, blanks and stationery of every description with printed headings and certificates and other necessary and proper equipment for the registration of voters and the conduct of such elections, and for every incidental purpose connected therewith; and shall select and appoint the places of registration and also the polling place in each precinct, and cause the same to be fitted up, warmed, lighted and cleaned, and such place or places shall be located in the most public, orderly and convenient portion thereof.

SEC. 5. Said election commissioners and deputy election commissioner shall have the power and are hereby authorized to register any person or persons in said office of election commissioners, and re-register or transfer any person or persons, who may have changed their residence from one ward to another ward, or from one precinct to another in any ward, at any time, except on such day or days on which a precinct registration may be held in said city, and except such days as intervene between the completion of the registration herein provided and the next following election; a change of residence from one place in a precinct to another place or part thereof, shall not necessitate a re-registration or transfer, or deprive the registered voter of his right to vote in said precinct. Such registration of voters shall be done in the same form and manner and in the same book as provided for the registration of voters in the precincts by the judges of election sitting as a board of registration in such precincts.

SEC. 6. It is hereby made the duty of such board of election commissioners for such cities within six months after taking effect of this act, to divide such cities into election precincts regarding ward lines and composed of compact and contiguous territory, which shall contain as nearly as practicable, four hundred actual voters; and in making such division and establishing such precincts, such commissioner shall take as a basis the poll books of the number of votes cast at the last preceding presidential election. At least six months before each subsequent presidential election the election commissioners may revise and rearrange the precincts and increase or decrease their number on the basis of the votes cast at the previous presidential election for President, making such precincts to contain, as near as practicable, four hundred voters, measured by the vote of such election. The precincts in each ward shall be numbered consecutively.

SEC. 7. After the said commissioners are appointed and qualified, they shall prepare for a new and general registration of voters

for the next city election or State election, as the case may be; such registration shall be continued and revised as herein provided.

SEC. 8. Such board of election commissioners shall, at least sixty days prior to the first city or State election after this act becomes a law, select and choose four electors as judges of election for each precinct in such city: they must be citizens of the United States, and entitled to vote in such precinct at the next election, must be men of
136 good repute and character, be of good understanding and capable, they must reside in the ward in which the precinct for which they are selected to act is situated, and not hold any office or employment under the United States, the State of Missouri or the city in which such election is held, and not be candidates for any office at the next ensuing election; two clerks of election for each precinct shall also be selected within the same time by such commissioners, who shall possess the same qualifications as the judges aforesaid. Before entering upon the duties of their offices, each judges and clerk, so appointed, shall take and subscribe to like oath as that taken and subscribed by the election commissioners, and file the same in the office of election commissioners. Said judges and clerks shall be appointed for a term ending thirty days prior to the next State election after the election at which they were appointed to serve, and shall, during said term, serve as judges and clerks at all special, local or municipal elections in such cities; where a vacancy in the office of judge or clerk shall occur from any cause, said commissioners shall make an appointment as herein provided to fill such vacancy. Two of said judges and one of said clerks of election shall belong to and be members of the party of opposite politics to the other two judges and clerks.

SEC. 9. Such board of registration and election clerks shall first meet in the precinct on Tuesday four weeks preceding the first general city election, or the first general State election, which shall be the first day of registration, and the second day of registration shall be on the Saturday following, and the third day of registration, Tuesday, three weeks before such election. A new general registration shall be made in every year thereafter in which a presidential election occurs, and just prior thereto the first day of registration in the precinct shall be on Tuesday, four weeks before such election, the second day of registration in the precinct being on Saturday following, and the third day of registration in the precinct, Tuesday, three weeks before such election. Two registry books shall be provided and furnished to each board of registration by the said election commissioners for the purpose of said registration; the headings to the books shall be so prepared that the registry shall be made alphabetically according to the surname of each person applying, but it shall be arranged so that the residence of such person shall appear in the first column. The register shall be ruled and one name shall be written on each line, but no name shall be written between the lines. Under the column "residence," the name and number of the street, avenue, or other location of the dwelling, if there be a definite number, and if there shall not be a number, such clear and definite description of the place of such dwelling as shall enable it

to be readily ascertained. If there shall be more than one house at the number given by the applicant as his place of residence, state in which house he resides, and if there be more than one family residing in said house either the floor on which he resides, or the number or location of the room or rooms occupied by him, whether front or rear—every floor below the level of the street or ground being designated as the basement, the first floor above such level being designated as the first floor, and each floor above that as the second or such other floor as it may be. Under the column "name," the name of the applicant, writing the surname first, and given or Christian name after in full. Under the column "nativity," the State, county, kingdom, empire or dominion, as the fact stated by the applicant shall be. Under the column "color," the word "white" or "colored," as the fact is. Under the subdivision of the general column "term of residence," the periods, by days, months, or years, stated by the applicant in precinct, city and State. Under the column "native," the word "yes;" under the column "naturalized," the word "yes," according to the fact stated. If the applicant
137 be of foreign birth, and has not been naturalized, but has made a declaration of intention to become a citizen, then under the column "declaration of intention" the word "yes." Under the column "qualified voter," the word "yes" or "no," as the fact shall appear or be determined by the board of registry, it being, however, required of them to designated as a qualified voter any male person who, if otherwise qualified, shall not, at the time of making application, be of age, provided the time when such applicant shall be of the age of twenty-one shall be subsequent to the date of his application, and not later than the day of election immediately following such time of applying, or, if foreign-born, whose declaration of intention to become naturalized will have been made one year before such election. Under the column "date of application," the month, day and year when the applicant presented himself and was adjudged a qualified voter in the election precinct. Under the column "signature," in one of the registers, the applicant shall write his name. If he is unable to write, he shall make his mark after his name is written for him.

SEC. 10. The judges of election aforesaid shall constitute the board of registry in the precinct for which they are appointed. In the registry of voters, said board of registration shall proceed as follows: They shall open the registration office at eight o'clock a. m., and continue in session until nine o'clock p. m. on each of said days. One of the judges shall administer to all persons who shall personally apply to register the following oath or affirmation: You do solemnly swear (or affirm) that you will fully and truly answer all such questions as shall be put to you touching your place of residence, name, place of birth, your qualifications as an elector, and your right as such to register and vote under the laws of this State; so help you God. Each of said clerks of election and one of said judges of election shall have charge of the registry book

and shall make the entries therein required by this act, and one of the judges shall ask the question as to qualifications, and after he is through any of the judges may ask questions. One of the judges of election may, when necessary, relieve one of the clerks from time to time, as necessity may seem to demand, in making entries in said books. The name of every applicant shall be entered in such registry books, and all the facts shall be therein stated, as hereinafter provided, whether he is entitled to vote or not. If it shall be determined by the board of registry that he is not a qualified voter in such precinct, then an entry shall be made in the appropriate column "no," and if qualified, an entry shall be made in the same column, "yes." Unless a majority of the judges shall determine the applicant is a qualified voter he shall be entered as not qualified, subject to the applicant's right of appeal as herein provided. Only such male persons, of the age of twenty-one years, residing in such precinct, as apply personally for registration, shall be entered in such register; but every applicant who would be twenty-one years of age on the day of the next election, or, if foreign-born, whose declaration of intention to become naturalized will have been made one year before such election, if otherwise qualified, shall be entered on such registers. Every applicant who has commenced to reside in such precinct at least twenty days before such election shall be entered in such registry, and shall be marked "qualified" or "disqualified," as the case may be; but unless, on the day of election, he shall have resided twenty full days in such election precinct, he cannot vote therein, although otherwise qualified. At the end of the day's registration, each of said judges shall sign his name at the end of the list on each page of the registration book. Any vacancy upon such board of registration on any day of registration by reason of absence, disqualification, refusal to act or otherwise, of any judge or clerk of election,
shall be filled by the judge or judges present, and the same
138 oath shall be administered by one of the judges present to
such judge or clerk as provided for regular judges and clerks.
The judge or clerk so appointed shall be of the same politics as the judge or clerk he succeeds.

SEC. 11. Every male citizen of the United States, and every male person of foreign birth who may have declared his intention to become a citizen of the United States according to law, not less than one year nor more than five years before he offers to vote, who is over the age of twenty-one years, who has resided in the State one year next preceding the election at which he offers to vote, and during the last sixty days of the time shall have resided in the city where such election is held and during the last twenty days of that time in the precinct at which he offers to vote, who has not been convicted of bribery, perjury or other infamous crime, or of a misdemeanor connected with the exercise of the right of suffrage, nor directly interested in any bet or wager depending upon the result of the election, nor any officer, soldier or marine in the regular Army or Navy of the United States, nor while kept at any poor-house or other asylum at public expense, nor while confined

in any public prison, shall be entitled to vote at such election, for all officers, State or municipal, made elective by the people, or at other elections held in pursuance of the laws of the State, but shall not vote elsewhere than in the precinct where his name is registered, and whereof he is registered as a resident.

SEC. 12. The election commissioners shall prepare and furnish to the board of registration in each precinct two blank books to be known as "verification lists," each page to be ruled into columns, and contain pages sufficient for each street, avenue and alley in the precinct. During the progress of registration, or immediately thereafter, the clerks of said board shall transfer all the names upon the register to the left-hand pages of such "verification lists," arranging them according to the street-, avenues, alleys or courts, beginning with the lowest residence number, and placing them numerically, as nearly as possible, from the lowest up to the highest number. They shall first write the name of such street, avenue, alley or court at the top of the second column and then proceed to transfer the registered names to the pages of such "verification lists," headed (*and*) "registered names," according to the street number as above indicated. If, during either day of registration, a registered voter of the ward shall come before the board of registry and make oath that he believes that any particular person upon such registry is not a qualified voter, such fact shall be noted; and after the completion of such "verification lists," such board, or one of said judges, shall make a cross or checked mark in ink opposite such name upon each of said "verification lists." If such judges shall, however, know that any person so complained of is a qualified voter, and shall believe that such complaint was only made to vex and harass such qualified voter, then such cross or checked mark shall not be put upon such lists Said board of registration shall, before eight o'clock on the following day, return said "verification lists" to the office of such election commissioners.

SEC. 13. The clerks of election are hereby constituted canvassers of the precinct for which they are appointed, and, upon the Wednesday and Thursday following the third day of registration, if so much time shall be required, said two clerks shall, each having one of said "verification lists," go together and canvass such precinct, calling at each dwelling-place or each house where any one may reside in such precinct, and each dwelling-place as indicated upon said "verification lists," and if they shall find that any person upon their "verification lists" does not reside at the place designated thereby, they shall make a check-mark opposite such name. If, in making any such canvass any person shall refuse to answer questions and give the required information asked for and known to him or her, such person shall be deemed guilty of a misdemeanor, and be liable to a penalty not to exceed $50. In making
139 such canvass, such canvassers shall make special inquiry at the residences as designated in the registry and "verification lists," as to all the persons so registered as qualified voters. Three copies thereof shall be made; one copy shall be given to each of said clerks at the close of the third day of registration, and the third

copy shall be returned to the election commissioners. Said clerks shall meet at eight o'clock in the forenoon of each day of said canvass, and proceed with such canvass. Each of said clerks shall have one copy of said "verification lists." If either of said clerks shall fail to appear at the place designated by fifteen minutes after eight o'clock, on either of said days, the election commissioner shall immediately appoint a clerk of the same politics, in place of the one absent, or failing to act. And such clerk so failing to appear, or refusing to continue or abandoning said canvass, shall be deemed guilty of a misdemeanor, and, on conviction, be punished by imprisonment for not less than one month nor more than one year.

SEC. 14. Immediately upon the completion of said canvass, said canvassers, or one of them, shall sign a notice and send the same through the mail to the address given upon the registry and "verification lists," of all persons named therein against whose names they have made check-marks, indicating that they did not reside at such place as before stated, and also to the address of all persons against whose names said registry board or judge of election has placed a check-mark in such "verification lists," which notice shall require such person to appear before the board of registry upon the Saturday following, and to show cause why his name should not be erased from such registry. Proper blanks and postage stamps shall be furnished for the purpose to said canvassers by the commissioners. A similar notice shall also be served by one of said canvassers, either at the time said canvass is being made or before the following Saturday, by leaving the same with the party, if found, or, if he be not found, at the place designated in such registry and "verification lists," by leaving the same at such address, if there be such place. Such notice, to be sent through the mail, must be mailed not later than 10 o'clock Friday morning of the week of such canvass. Any willful neglect of such canvassers to mail the notice aforesaid to all the parties checked and designated as aforesaid, or to leave the notice aforesaid at the place designated for such person so designated, or to check the name of any person on said "verification lists," transferred from the registry as aforesaid and not found at the place designated, or to transfer all the names from the registry as aforesaid to such "verification lists," as aforesaid, shall be a misdemeanor, punishable by imprisonment not less than one month nor more than one year. And it shall be the duty of said commissioners, when complaint is made to them, to investigate the action of such clerks or canvassers, and to cause them to be punished for such neglect of duty.

SEC. 15. On the Saturday following the Tuesday, three weeks preceding such election, said board of registration shall again meet at the place designated, and the said clerks of election shall meet with them, and they shall remain in session from 10 o'clock a. m. until 10 o'clock p. m., for the sole purpose of revising their registry; and no new names shall be added. Said canvassers, or one of them, shall make out a list of the names of parties checked and designated as aforesaid, and to whom such notice has been sent, given or left with the address, stating that notice was mailed to each of said parties

at the places designated on such lists, on or prior to 10 o'clock a. m. of the previous Friday, and that notice was also personally left at the said address of each of said parties named in said list so attached, if there be any such address. If any person to whom such notice has been sent shall appear before the board of registration during that session, said board of registration shall further examine him on oath, and also swear such canvassers, and hear him or them upon the question, and if, after, such examination and hearing, the majority of said board are of the opinion that such person is not a qualified voter in such precinct, they shall mark the word "yes" under the column of the registry marked "erase," and shall also draw a line in ink under his name; which, in case of any registration, shall indicate that the name of such person is erased from the register, and shall not be entitled to vote unless his name be restored as herein provided. If any person to whom notice has been sent because his declaration of intention to become naturalized has been made more than five years before the next election, shall appear before said board at such session, he shall show in the same manner as in the case of original registration that he has become naturalized, otherwise his name shall be erased from the register. In making correction of entries as to residence and naturalization, a line shall be drawn through the former entries, the proper entries made, and the word "corrected," with the date, written in the column headed "remarks." During the last hour of said session, if any person so notified to appear at such session shall not appear and show cause why his name should not be erased from such register, the same shall be erased. Either of said clerks shall have the power and right of both in the matter pertaining to such canvass, except that both are required to go together to make such canvass. The "verification lists" aforesaid, after the final revision, shall be at once returned by the board of registration to the office of the election commissioners. If any person, already registered, shall appear before said board at such session and make oath that he has removed to another place in the same precinct, said board, if they believe him, shall not erase his name, but shall make the correction to his residence in the books of registration.

SEC. 16. Any voter or voters in the ward containing such precinct may make application in writing before said board of registration at the session mentioned in the next preceding section, to have any name upon such register of any precinct erased, and of which application, the person making the same shall give the person whose name he seeks to erase due notice in writing or otherwise, at least one day before the day of said session. If, upon hearing the application, the board of registration conclude to erase the name they shall so note it on the register. Such person may appear before the board of election commissioners for the purpose of reinstating his name on the register of voters, presenting from the board of registration a certificate of his rejection and briefly the reason therefor, giving the precinct and ward.

SEC. 17. At the end of the last session provided for, the said board of registration and said clerks shall compare and correct the regis-

ters aforesaid, and make them correspond and agree; and said judges shall then, immediately following the last name on each page of the register, sign their names so that no other name can be added without discovery, and shall return the two registers to the possession of the election commissioners; thereupon the said commissioners shall at once cause copies to be made of such registers, of all the names upon the same, with the address, and arranged according to the streets, avenues or alleys, commencing with the lowest number, and arranging the same in order according to street numbers, and shall then cause such precinct register, under such arrangement, to be printed in sufficient numbers to meet all demands; and upon application, a copy of the same shall be given to any person in such precinct. Said registers in the office of the election commissioners, shall be public records and open to public inspection.

SEC. 18. Every general registration shall be made in the same manner and in conformity with the directions herein. At every general registration, every person desiring registration, shall appear in person and make application, under oath, as in the case of the first registration herein provided. The same form and blanks and methods of proceeding shall be had before and by the board of registry, and by the canvassers, and by and before the judges of
141 election and election clerks, and by the election commissioners in every subsequent registration, as is directed herein for the first registration and election following the same. If any special election, occurring in a portion of such city only, or which is to fill a vacancy occurring in a single office, there shall not be a general revision of the registry.

SEC. 19. At every election held in such cities between the general registrations above referred to, the last general registry shall be used, and for that purpose the board of registration shall meet on Tuesday, three weeks preceding such election, and on the Saturday following, and shall hold a session from 8 o'clock a. m., until 10 o'clock p. m., on each day, and names may be added to the register in the same way, upon sworn applications as in the case of a general registration, and all the other forms and requirements are to be observed as provided with reference to general registration, both as regards the canvass after registration, the revision of the registration and otherwise. At every election held in such cities between the time this act becomes a law and the next general registration provided for herein, the registry books of qualified voters in such cities at the last general city or State election, and used in said election as the registry of qualified voters of such cities, and the registry of qualified voters under section 5 of this act, together with the registry of qualified voters, made as provided in this section, shall be the registry of qualified voters of such city used and in force for such elections. New books of registry shall be prepared and furnished as provided in section 9 of this act by said election commissioner for the registration required to be made in every presidential year by this act; and the registry

and other books no longer required, or used, shall be kept and preserved in the office of the election commissioners.

SEC. 20. Any voter of the precinct shall be permitted to be present at the place of registration in said precinct, and shall have the right to challenge any applicant who applies to be registered; but if the board is satisfied that such person is a qualified voter, he must be so registered; if denied the right to be registered as a qualified voter in such precinct, he may make and sign an application, in writing, and file the same with the election commissioners, to be heard and considered by the board of appeals, as in other cases provided.

SEC. 21. Said election commissioners shall, on Thursday, Friday and Saturday of the week prior to the week in which such general or presidential election is to be held, sit as a board of appeals, to hear such application and appeals as shall be made to be placed upon the registry of voters of any particular precinct, of persons who applied for registration and were refused by the board of registration, or had their names stricken from the registry by said board. Said board of appeals may also register as qualified voters, such persons as may make application, who failed to appear before the board of registration because of sickness, forgetfulness, absence from the city or other reasonable cause, at the time of precinct registration.

SEC. 22. It shall be the duty of such election commissioners to give ten days' notice in two daily newspapers of such cities, of opposite politics, of the time and place of registration in each precinct of the city, and on the day preceding any election, have delivered the two registers of said precinct, the ballot-box, poll books, verification lists, and necessary blanks and stationery, packages of ballots and key to box to one of said judges of election, at his residence in such precinct.

SEC. 23. The election polls shall be open at 6 o'clock in the morning and continue open until seven o'clock in the afternoon of the same day, at which time they shall be closed. No judge or clerk shall absent himself to exceed five minutes at any one time until the ballots are all cast and counted, and returns made thereof. If any judge or clerk shall not be present after the expiration of fifteen minutes from the time to open the polls, or be disqualified, or refuse to act, the judge or judges present shall fill the place of such absent judge or clerk, or vacancy by selecting a person of the same political party as the judge or clerk absent. One of the judges shall administer to such judge or clerk the oath required of the judge or clerk
142 originally appointed, and such appointee perform like duties and be subject to the same punishment and penalties as any other judge or clerk. Any judge or clerk who shall willfully absent himself from the polls on election day, without good cause, shall be guilty of a misdemeanor, and subject to a fine of five hundred dollars. And if such judge or clerk shall willfully detain any register or poll book or ballot, and not cause them to be produced at the polling place at the opening of the polls, or for fifteen minutes thereafter, he shall be guilty of a misdemeanor, and, on conviction, be impris-

oned not less than three months nor more than one year, or fined not less than $200 nor more than $1,000.

SEC. 24. Before voting begins the ballot-box shall be empty, and it shall be opened and shown to those present to be empty, and not be removed from public view from the time when shown to be empty until after the close of the polls. It shall be locked and the key delivered to one of the judges and shall not again be opened until the close of the polls. The judges of election shall each be held guilty of a misdemeanor if such ballot-box shall not be kept constantly in public view during the progress of the election, unless it shall be shown by a judge that he protested against such obstruction of the view of the ballot-box, and was overruled, by a majority of the judges. If any obstruction shall be, prior to or during such election, interposed so that all who desire cannot constantly see such ballot-box, it shall be the duty of such judges to remove such obstruction on request of any voter of the precinct.

SEC. 25. Each of the clerks of the election shall keep a poll book which contains a column headed "number," another headed "residence," and another headed "names of voters." The name and street and number of the residence of such voter shall be entered upon each of the poll books by the clerks, in regular succession, under the proper headings, and the number of such voter, in the order in which he voted, placed opposite the name in the column headed "number."

SEC. 26. One of the said judges of election shall receive the ballot from the voter, and shall announce his residence and name in a loud voice, and shall write on the back of said ballot the number of the same, in the order in which it was received, which number shall also be placed opposite the name of the voter in the poll book, in the column headed "number," and another judge shall put the vote in the ballot-box in the presence of the voter and the judges and clerks, and in plain view of the public. The judge or clerk having charge of the registry shall then, in a column prepared thereon, in the same line of the name of the voter, mark "voted," or the letter "V." If such person so registered shall be challenged or disqualified, the party challenging shall assign his reason therefor, and thereupon one of said judges shall administer to him an oath to answer questions, and he shall be questioned by said judge or judges touching such cause of challenge, and touching any other cause of his disqualification, and may also be questioned by the person challenging him in regard to his qualifications and identity, but if a majority of the judges are of the opinion that he is the person so registered and a qualified voter, his vote shall then be received accordingly. The vote of no one shall be received by said judges whose name does not appear upon the books of registration as a qualified voter.

SEC. 27. Said judges of election shall have authority to keep the peace and to cause any person to be arrested for any breach of the peace or for any breach of the election laws, or for any interference with the progress of such election or of the canvass of the ballots, and it shall be the duty of all officers of the law present to obey the

order of such judges of election. At every registration and election, each of the political parties shall have the right to designate and keep a challenger at each place of registration, revision of registration and voting, who shall be assigned such position inside the polling or registration booth, as will enable him to see each
143 person as he offers to register or vote, and who shall be protected, in the discharge of his duty, by the judges of election. Two persons of each political party, represented on the ballot, of good character and standing, may be admitted, by the judges, into the polling place to be present during the canvass of the votes and the making of the returns.

SEC. 28. As soon as the poll of an election shall be finally closed, the judges of election, in their several precincts, shall immediately, and at the same place of the election poll, proceed to canvass the votes. Such canvass shall not be adjourned or postponed until it shall be fully completed, nor until the statements herein required to be made by the judges and clerks shall be made out and signed by them. The judges of election shall have the right to station one or more police officers or other peace officers, at such entrance to the room where such canvass is begun or about to take place, to exclude noisy or disorderly persons, and to keep the peace.

SEC. 29. The judges of election shall first count the whole number of ballots in the box. If the ballots shall be found to exceed the number of names entered upon each of the poll books, they shall reject the ballots, if any, found folded inside of a ballot; and if the ballots and the poll list do not agree after such rejection, they shall reject all ballots not numbered, and no ballot not so numbered shall be counted. The ballots so rejected shall be enclosed in an envelope marked "rejected ballots," and returned with the ballot-boxes to the election commissioners; and the ballots or poll lists agreeing or being made to agree in this way, the board shall proceed to count the votes in the following manner: Said judges shall open the ballots and place those which contain the same names together, so that the several kinds shall be in separate piles, or on separate files. Each of the judges shall examine the separate files which are on, or supposed to be alike, and exclude from such files any which may have a name or any erasure, or in any manner shall be different from the other of such file. One of said judges shall then take one file of the kind of ballots which contain the same name and count them by the tens, carefully examining each name of each of said ballots. Said judge shall then pass the ten ballots aforesaid to other judges, who shall count them in the same manner, and call the names of the persons named in the ten ballots, and the offices for which they are designated, and the poll clerks shall tally ten votes for each of such persons. When they shall have gone through such file of ballots containing the same name by tens in that way, and when the clerks shall have tallied all the votes by ten for each of said persons, they shall then take up the next pile of ballots containing the same names, and shall count them by tens in the same way, and shall

call the names of the persons named in said ballots and the offices for which they are designated, and the clerks shall tally the vote by tens for each of said persons in the same manner. When the counting of each file of ballots which contain the same names shall be completed, the clerks shall compare their tallies together and ascertain the total number of ballots of that kind so canvassed, and when they agree upon the number, one of them shall announce it in a loud voice. The said judges shall then canvass the other kind of ballots which do not correspond, those containing names partly from one kind of ballots and partly from another, being those usually called "split tickets," and those from which the names of the persons proper to be voted for on such ballots had been omitted or erased, usually called "scratched tickets." They shall be canvassed separately by the judges, and each name called out to the clerks and the office for which it is designated, and the clerks making tally of the same. When all ballots are canvassed in this manner, the clerks shall compare their tallies together, and ascertain the total number of votes received by each candidate, and when they agree upon the number, one of them shall announce in a loud voice the number of votes received by each candidate on each of the kinds of ballots containing his name.

144 SEC. 30. Whenever any proposition is submitted to a vote of the people, and is printed or written upon the same ticket with the names of candidates for an office, the names, together with such proposition, shall be canvassed in the following manner: All the ballots shall be first separated into three piles, the first pile containing all the ballots in favor of such proposition; the second pile containing all the ballots against such proposition; and the third pile containing all the ballots not mentioning such proposition, or being neither for nor against such proposition. Each of the judges shall then examine each pile and see that the separation has been properly made. Then the first pile shall be counted by tens and the result announced to the clerks, who shall tally the same by tens; and so the second pile shall be counted, announced and tallied, and likewise the third pile; and the clerks shall announce the number of votes for, and the number of votes against, such proposition. The ballots for or against any proposition submitted shall always be canvassed, counted and tallied before the names of candidates for any office are canvassed, counted or tallied. If the tally-sheets and returns should contain no heading for any proposition submitted, it shall be the duty of the clerks to write into such tally-sheets and returns the headings necessary in order to keep a correct tally and to make a correct and accurate return, and it shall be the duty of the clerks and judges of election to make a true count and correct return of all votes upon any such proposition, and certify the same to the election commissioners, as provided herein in other cases.

SEC. 31. The said judges of election shall make two statements of the result of the canvass, one of which shall be written or partly written and partly printed in each of the poll books used at such election. Each of these statements shall contain a caption

stating the day on which, and the number of the election precinct and the ward, and city in relation to which such statement shall be made, and the time of opening and closing of the polls of such precinct. It shall also contain a statement showing the whole number of votes given for each person, designating the office for which they were given, which statement shall be written or partly written and partly printed in words at length; and in case a proposition of any kind has been submitted to a vote at such election, such statement shall also show the number of votes cast for or against such proposition, written out or partly written and partly printed in words at length, and at the end thereof a certificate that such statement is correct in all respects, which certificate and each sheet of paper forming part of the statement, shall be subscribed by the said judges and election clerks. If any judge or election clerk shall decline to sign such returns, he shall state his reason therefor, in writing, and a copy thereof signed by himself shall be enclosed in an envelope, which shall then be securely sealed, and each of the judges and each of the election clerks shall write his name across every fold at which the envelope, if unfastened, could be opened. And the envelope shall be directed on the outside to the election commissioners. Each set of tallies shall also be signed by the election clerks and judges of election, and shall also be enclosed in an envelope, securely sealed and signed and directed on the outside of envelope to said election commissioners. On the outside of envelope shall be endorsed whether it contains the statement of the votes cast or the tallies, and for what precinct and ward.

SEC. 32. The poll books which contain the statement of returns shall be placed in the ballot-box and the ballot-box shall then be locked and the key removed; whereupon, said judges of election shall all write their names upon a slip of paper of sufficient length for the following purposes: Said slip of paper, after the signing of their names thereon by said judges, shall then be pasted over the keyhole of the said box and extending upward to the upper lid of the box and carried for some distance over the top, and it shall be placed in such a way that the signatures of said judges shall extend across the place of the opening of the lid of the box, so that when the box is opened it shall tear such paper and destroy the signatures written thereon, and when the key shall be inserted in the keyhole it will tear the paper so pasted over the keyhole. Such paper shall be fastened with some adhesive material and so as not to permit the removal of such slip of paper without defacing it.

SEC. 33. The judges shall fold in two folds and string closely upon a string or wire, all ballots counted by them, except those marked "defective," or "rejected," unite the ends of such string or wire in a firm knot, enclose the ballots so strung in an envelope, on which shall be endorsed, in writing or print, the number of the precinct, date on which such election was held, and securely seal such envelope, so that it cannot be opened without breaking the seal, and return said ballots, together with the package containing the ballots marked "defective," or "objected," or "rejected," in such sealed

package or envelope to the election commissioners and deliver said ballot-box and the key thereto immediately after signing the statement of the result of the canvass and tally-sheets and the sealing of the ballot-box, go to the office of the election commissioners and delivere said ballot-box and the key thereto to said election commissioners, who shall keep the office open until all of said ballot-boxes have been received. Immediately upon receiving said ballot-boxes, said commissioners shall give a receipt therefor to said judges, and shall place them properly arranged in the order of precinct numbers in boxes which shall be securely locked. Said boxes shall be placed in a vault having a double lock, and said vault shall be locked. Said election commissioners shall securely keep said ballot-boxes for twelve months, not opening or inspecting them nor allowing any one else to do so, except upon order of court in case of contested election, or when it shall be necessary to produce them at the trial of an offense committed under this act. At the end of twelve months after said election, said ballots shall be destroyed: Provided, that if any contest of the election of any officer voted for at such election, or prosecution under this act shall be pending at the expiration of said time, the said ballots shall not be destroyed until such contest or prosecution be finally determined.

SEC. 34. Another judge shall take a statement of the votes cast into his possession, sealed up in an envelope as aforesaid, and one of the clerks shall take a tally-sheet, sealed up in an envelope as aforesaid, and the judge having possession of statement and the clerk having possession of tally-sheet, shall each, before twelve o'clock of the next day after such election, deliver the statement and tally-sheet to the said election commissioners, and take a receipt from them therefor. And it shall be the duty of the said election commissioners to receive the same, and to keep, safely under lock and key until ordered to be surrendered as herein provided.

SEC. 35. The said election commissioners, upon the receipt of said ballot-box and key thereto, shall note the condition of seal or stamp on said box, and enter the fact touching the same upon a book kept by him, together with the name of the judge who returns such ballot box; he shall thereupon open said ballot-box and remove the poll books containing the returns of the votes cast, and note upon the book their condition, and put them in a secure place under lock and key, to which the public, in no event, shall have access. If any judge or judges or clerks taking ballots, ballot-boxes, statement, tally or poll books, to be delivered to the election commissioners, shall fail to deliver the same to said election commissioners within three hours after the close of the canvass of the votes as aforesaid, or shall fail or refuse to comply with the provisions of this act, he or they shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than $25 nor more than $500, or imprisonment not more than six months, or by both such fine and imprisonment.

SEC. 36. Within eight days after the close of such election such board of election commissioners shall publicly open all the returns aforesaid and shall make abstracts of statements of all the votes for

governor and lieutenant governor on one sheet; all votes for
146 other State officers on another sheet; all votes for presidential electors on another sheet; all votes for judges of the supreme court on another sheet; all votes for judges of the court of appeals on another sheet; all votes for members of Congress and for senators and representatives to the General Assembly on another sheet; all votes for county officers on another sheet; all votes for city officers on another sheet; all votes for any other officer on a separate and appropriate sheet; all votes for and all votes against any proposition which may be submitted to a vote of the people on another sheet. It shall be the duty of such board to canvass, add up and declare the result of every election held within the boundaries of such city, and transmit an abstract of the same to the secretary of state, or other proper officer, as required by law; and such abstract or results, and a certified copy thereof, shall be treated everywhere within the State, and by all public officers, with the same force and effect as the abstract of votes now authorized by the laws of the State in such cases made and provided.

SEC. 37. The election commissioners shall make out a certificate of election to each person having the highest number of votes for the several offices voted for, including aldermen and members of the municipal assembly, and deliver such certificate of election to the person entitled to it on his application.

SEC. 38. If, upon opening the various returns so made, there shall be anything to indicate that a change has been made in such returns since signing the same by the judges and clerks of any fraud in any respect touching such returns, it shall then be the duty of the board to have all the tallies opened and examined. If there shall then be any doubts as to the genuineness of such returns for any precinct, and as to the actual vote as originally returned, and the truth respecting the same remain uncertain, it shall be the duty of said canvassers to examine any person or persons who were present at the time of the proclamation so made by the judges of election in such precinct, about which any doubt may arise, and the board shall be permitted to place such parties or witnesses under oath and examine them touching the same, and it shall be their duty to call such parties who were present at the time of such proclamation to come before them, and a subpœna may be issued by the election commissioners compelling any such witness to come before such board and give their evidence touching the matter; and it shall be the duty of said board to declare the result of the vote in any such precinct in regard to which any question arises, in the vote, in the same manner as it was proclaimed by the judges of election after the canvass by them in such precinct, the result so declared, shall be binding and conclusive, except in case of election contests.

SEC. 39. Any person who shall impersonate an elector or other person, and register or attempt to offer to register the name of such elector or other person, or if any person shall fraudulently register or offer, or attempt to register in or under the name of any other person or in or under any assumed or fictitious name, or in or under any name not his own, or shall register in two election precincts;

or having registered in one precinct, shall attempt to register in another, or shall knowingly, by false personation or otherwise, cause or procure, or attempt to procure, the name of any qualified voter in any election precinct to be erased or stricken from any registry of voters of such precinct, made in pursuance of this act, or otherwise as in this act provided; or by force, threat, menace, intimidation, bribery, reward or offer or promise thereof, or other unlawful means, prevent, hinder or delay any person having a legal right to register or to be registered, from duly exercising such right; or shall solicit, counsel, or induce by unlawful means, any officer of registration to register any person not entitled to registration in such precinct; or to register any false, assumed or fictitious
147 name, or any name of any person, except as provided in this act, upon conviction, shall be adjudged guilty of felony and punished — in the penitentiary not less than two years.

SEC. 40. Any person who shall falsely personate any elector, or other person, and vote, or attempt to offer to vote in or upon the name of such elector or other person; or shall vote, or attempt to vote, in or upon the name of any other person, living or dead, or in or upon any assumed or fictitious name, or in or upon any name not his own; or shall knowingly, willfully or fraudulently vote more than once for any candidate for the same office except as authorized by law; or shall vote, or attempt or offer to vote in any election precinct without having a lawful right to vote therein; or vote more than once, or vote in more than one election precinct; or having once voted, shall vote, or attempt to vote again; or shall knowingly, willfully or fraudulently do any unlawful act to secure a right or opportunity to vote for himself or for any other person to vote; or shall by force, threat, menace, intimidation, bribery or reward, or offer or promise thereof, or otherwise unlawfully, either directly or indirectly, influence or attempt to influence any elector in giving his vote; or prevent or hinder, or attempt to prevent or hinder, any qualified voter from freely exercising the right of suffrage; or by any such means induce, or attempt to induce, any such voter to exercise any such right, shall, upon conviction, be guilty of a felony and punished for every such offense by imprisonment in the penitentiary not less than two years.

SEC. 41. Every election commissioner, deputy election commissioner, judge of election, clerk, canvasser or other officer, authorized to take part in or perform any duty in relation to any canvass or official statement of the votes cast at any election in any precinct or in any city, who shall make any false canvass of such votes; or shall make, sign, publish or deliver any false return of such election, or any false certificate or statement of the result of such election, or who shall deface, destroy or conceal any statement, tally or certificate entrusted to his care or custody, shall, on conviction thereof, be adjudged guilty of a felony, and be punished by imprisonment in the penitentiary not less than two years.

SEC. 42. If any person other than a judge of election, shall at any such election knowingly or willfully put or cause to be put any ballot or ballots, or other paper having the semblance thereof, into

any box used at such election for the reception of votes; or if any judge of election shall knowingly and willfully cause or permit any ballot or ballots to be in said box at the opening of the polls, and before the voting shall have commenced; or shall knowingly, willfully or frauduently put any ballot or other paper having the semblance thereof or cause or permit any ballot or other paper having the semblance thereof to be put in any such box at any such election, unless the same shall be offered by an elector, and his name shall have been found and kept upon the registry as herein provided, or who shall be entitled to vote under this act; or if any such judge of election or other officer or person, shall, during the canvass of the ballots, in any manner change, substitute or alter any ballot taken from the ballot-box then being canvassed, or from any ballot-box which has not been canvassed; or shall remove any ballot or semblance thereof from, or add any ballot or semblance thereof to, the ballots taken from the ballot-box then being canvassed, or from any ballot-box which has not been canvassed. Every such person shall, upon conviction, be adjudged guilty of a felony, and punished by imprisonment in the penitentiary not less than two years.

SEC. 43. If, at any registration of voters, or on any day of election, or during the canvass of the votes cast thereat, any person shall cause any breach of the peace, or be guilty of any disorderly conduct, violence or threats of violence, whereby any such registration, revision, election or canvass shall be impeded or
148 hindered; or whereby the lawful proceedings of any judge of election, or board of registration, or clerk or other officer of such election or challenger, or person designated to be present at the canvass of any ballots, as herein provided, or interfered with; every such person shall, upon conviction, be adjudged guilty of a misdemeanor, and punished by imprisonment not less than thirty days nor more than one year.

SEC. 44. It shall be unlawful for any judge of election, clerk or person designated as provided in this act, or any person or persons within the polling place, to electioneer for any candidate, party or proposition. Any violation of this section shall be a misdemeanor, and shall be punished by imprisonment not less than ten nor more than ninety days, or by a fine of not less than fifty nor more than one hundred dollars.

SEC. 45. It shall be the duty of such election commissioners to aid in the prosecution of all crimes and offenses against this act, and they shall keep a book in which shall be entered all complaints against persons claimed to be guilty of the violation of this or any law of the State concerning registration and election and when, in the judgment of such election commissioners such offense has probably been committed, it shall be their duty to cause a prosecution to be instituted against such person.

SEC. 46. In all cities not within counties such election commissioners, deputy election commissioners, judges and clerks of election and registration and clerks and assistants employed by the board of election commissioners, shall be paid by the city. The

members of said board of election commissioners shall each receive a salary of $2,500 a year, and deputy election commissioner a salary of $2,000 a year, all payable monthly. The assistants and clerks employed by the election commissioners shall each receive a salary of $4.00 per day for the time actually employed, payable monthly. All office and other expenses incurred by said board of election commissioners, and all office and other expenses and all costs and expenses of registration and election in such cities shall be paid out of the city treasury. All printing, binding, books, stationery, etc., shall be paid for in the same manner and contracted for by the board of election commissioners.

SEC. 47. The act of a majority of such board of election commissioners shall in all cases arising under this act be considered as the act of said board of election commissioners.

SEC. 48. Said board of election commissioners shall audit all the claims of the judges of election and of registration and all other claims, expenses and accounts under this act, and shall draw a warrant therefor upon the proper officer.

SEC. 49. All acts and parts of acts inconsistent or in conflict with this act are hereby repealed, and the act, entitled "An act to create board of election commissioners, etc., approved May 31st, 1895, is hereby repealed."

Approved June 19, 1899.

149 RESPONDENT'S EXHIBIT "C."

STATE OF MISSOURI, *ss:*

I, Alexander A. Lesueur, secretary of state of the State of Missouri, hereby certify that the annexed pages contain a full, true and complete copy of the journal of the senate of the Fortieth General Assembly of the State of Missouri so far as it relates to house bill No. 760, as the same appears on file in this office.

In testimony whereof, I hereunto set my hand and affix the great seal of the State of Missouri. Done at office in the city of Jefferson, this 12th day of October, 1899.

[SEAL.] A. A. LESUEUR,
Secretary of State,
By T. W. PARK,
Chief Clerk.

Journal of the Senate.

Seventy-seventh day—Friday, April 21, 1899.

The following message was received from the house of representatives, through its assistant chief clerk, Mr. Slater,

Which was read:

Mr. President: I am instructed by the house to inform the senate that there has been introduced into and passed by the house, house bill No. 760, entitled "An act to provide for the registration of voters in cities now having or which hereafter may have three hundred

thousand inhabitants or more; to create the office of election commissioner, provide for his appointment, and define his duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and election therein."

Title amended.

In which the concurrence of the senate is respectfully requested.

SLATER,
Assistant Chief Clerk.

On motion of Senator Morton the senate adjourned until three o'clock p. m., Monday next.

Seventy-eighth day—Monday, April 24, 1899.

House bill No. 760, entitled "An act to provide for the registration of voters in cities now having or which hereafter may have three hundred thousand inhabitants or more; to create the office of election commissioner, provide for his appointment and define his duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein."

Was taken up and read first time.

On motion of Senator Vandiver, the senate adjourned under the rules.

Seventy-ninth day—Tuesday, April 25, 1899.

Afternoon Session.

House bill No. 760, entitled "An act to provide for the registration of voters in cities now having or which hereafter may have three hundred thousand inhabitants or more; to create the office of election commissioner, provide for his appointment and define his duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations gov-rning registration and elections therein."

Was taken up, read second time and referred to committee on privileges and elections.

On motion of Senator Miller, the senate adjourned under the rules.

150 One hundredth day—Saturday, May 20, 1899.

Senate met pursuant to adjournment.

President, *pro tem.*, McClintic in the chair.

A quorum present.

Prayer by the chaplain.

Roll was called and the following-named senators responded to their names:

Present—Senators

Anderson,	Farris,	Matthews,	Schweickardt,
Burkhead,	Fields,	Miller,	Tandy,
Childers,	Haynes,	Morton,	Thomas,
Cooper,	Hohenschild,	Mott,	Vandiver,
Dowell,	McClintic,	Ramp,	Whaley,
Drabelle,	Major,	Rollins,	Young—26.
Drum,	Martin,		

Absent—Senators

Busche,	Davisson,	Marshall,	Walker,
Clay,	Lyons,	Orchard,	Wilson—8.

Journal of yesterday read and approved.

Senator Haynes, from the committee on privileges and elections, submitted the following reports, which were read (among others):

Mr. President: Your committee on privileges and elections, to which was referred house bill No. 760, entitled:

An act to provide for the registration of voters, etc., in cities now having or which hereafter may have 300,000 inhabitants or more.

Begs leave to report that it has examined the same and recommends, by a majority vote, that it do not pass, and a majority of the committee are of the opinion, as heretofore reported, that the same cannot be considered, because of the Morton resolution.

Respectfully submitted.

W. H. HAYNES, *Chairman.*

On motion of Senator Morton, house bill No. 760, entitled:

An act to provide for the registration of voters in cities now having or which hereafter may have three hundred thousand inhabitants or more; to create the office of election commissioner, provide for his appointment and define his duties; to govern election in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein,

Was taken up for third reading.

Senator Busche moved to make consideration of house bill No. 760 special order for 2 o'clock p. m.

Roll was called, and the motion was lost by the following vote:

Ayes—Senators

Burkhead,	Haynes,	Mott,	Schweickardt,
Busche,	Martin,	Ramp,	Thomas—11.
Davisson,	Matthews,	Rollins,	

Noes—Senators

Childers,	Drum,	Marshall,	Vandiver,
Clay,	Farris,	Miller,	Whaley,
Cooper,	Fields,	Morton,	Wilson,
Dowell,	McClintic,	Orchard,	Young—19.
Drabelle,	Major,	Tandy,	

Absent—Senators

Anderson,	Hohenschild,	Lyons,	Walker—4.

Senator Busche raised point of order that the bill could not be considered because the printed copies were not correct.

The point of order was not sustained.

Senator Schweickhardt raises a point of order that the bill must lay over under the rules.

Senator Morton moved that the rules be suspended and house bill No. 760 be read third time and put upon its passage.

151 Senator moved to take a recess until 2 o'clock p. m. Motion lost.

Senator Rollins moved to take a recess until 10 o'clock p. m.

Division was called and motion lost by the following vote:

Ayes, 12; noes, 18.

The question recurring upon the suspension of the rules, roll was called and the motion prevailed by the following vote:

Ayes—Senators

Anderson,	Drum,	Major,	Vandiver,
Childers,	Farris,	Marshall,	Whaley,
Clay,	Haynes,	Miller,	Wilson,
Cooper,	Hohenschild,	Morton,	Young—23.
Dowell,	Lyons,	Orchard,	
Drabelle,	McClintic,	Tandy,	

Noes—Senators

Burkhead,	Martin,	Mott,	Rollins,
Busche,	Matthews,	Ramp;	Schweickhardt
Davisson,			—9

Absent—Senators

Thomas,	Walker—2.

The question recurring upon the motion of Senator Morton that house bill No. 760 be read third time and placed on its passage.

Senator Busche offered amendment No. 1, and moved its adoption; said amendment being a copy of senate bill No. 257;

Which was read first and second times.

Senator Haynes moved that all debate on the question be closed at 2.30 p. m., and a vote taken on all pending amendments and the bill.

The hour 2.30 having arrived, the question recurring upon the adoption of senate amendment No. 1 to house bill No. 760.

The amendment was lost.

The question recurring on the motion to place house bill No. 760 on third reading and passage.

The motion prevailed.

The roll was called and house bill No. 760 was passed by the following vote:

Ayes—Senators

Childers,	Farris,	Marshall,	Thomas,
Clay,	Fields,	Miller,	Vandiver,
Cooper,	Haynes,	Morton,	Whaley,
Dowell,	Hohenschild,	Orchard,	Wilson,
Drabelle,	McClintic,	Tandy,	Young—22.
Drum,	Major,		

No—Senator Mott—1.

Absent—Senators

Anderson,	Davisson,	Matthews,	Rollins,
Burkhead,	Lyons,	Ramp,	Schweickhardt
Busche,	Martin,		—10.

Absent with leave—Senator Walker—1.

The president declared the bill passed.

The title of the bill, as amended, was read and agreed to.

Senator Farris moved to reconsider the vote by which the bill passed.

Senator Fields moved to lay that motion on the table.

The latter motion prevailed.

On motion of Senator Farris, the senate took a recess until 7.30 p. m.

152 One hundred and first day—Monday, May 22, 1899.

Senate met pursuant to adjournment.

President, *pro tem.*, McClintic in the chair.

A quorum present.

Prayer by Chaplain Bradley.

Roll was called and the following-named senators responded to their names:

Present—Senators

Anderson,	Farris,	Miller,	Tandy,
Burkhead,	Fields,	Morton,	Thomas,
Busche,	Haynes,	Mott,	Vandiver,
Childers,	Hohenschild,	Orchard,	Walker,
Cooper,	McClintic,	Ramp,	Whaley,
Dowell,	Major,	Rollins,	Wilson,
Drabelle,	Marshall,	Schweickardt,	Young—30.
Drum,	Martin,		

Absent—Senators

Lyons,	Matthews—2.

Absent with leave—Senators

Clay,	Davisson—2.

Journal of Saturday was read.

Senator Mott objected to the approval of the journal.

Senator moved that the journal be corrected to show that Senator Mott did not vote on house bill No. 760.

The motion prevailed.

Senator Schweickardt moved that the record be corrected to show that Senator Davisson had the floor when Senator Haynes made motion to close debate and that protest be sent to the Secretary's desk, be filed and made a part of the record of Saturday.

Senator Drabelle moved as a substitute that the journal be approved and moved the previous question.

Roll was called and the previous question prevailed by the following vote:

Ayes—Senators

Anderson,	Drum,	McClintic,	Thomas,
Childers,	Farris,	Major,	Vandiver,
Cooper,	Fields,	Morton,	Whaley,
Dowell,	Haynes,	Orchard,	Wilson,
Drabelle,	Hohenschild,	Tandy,	Young—20.

Noes—Senators

Burkhead,	Marshall,	Miller,	Rollins,
Busche,	Martin,	Mott,	Schweickhardt
Lyons,	Matthews,	Ramp,	—11.

Absent—Senator Walker—1.

Absent with leave—Senators

Clay, Davisson—2.

Roll was called and motion to approve journal prevailed by the following vote:

Ayes—Senators

Anderson,	Major,	Marshall,	Vandiver,
Drum,	Farris,	Miller,	Walker,
Childers,	Fields,	Morton,	Whaley,
Cooper,	Haynes,	Orchard,	Wilson,
Dowell,	Hohenschild,	Tandy,	Young—23.
Drabelle,	McClintic,	Thomas,	

Noes—Senators

Burkhead,	Lyons,	Mott,	Rollins,
Busche,	Martin,	Ramp,	Schweickhardt
			—8.

153 Absent—Senators

Clay, Davisson, Matthews—3.

The president announced the reception from the house of representatives — enrolled house bill No. 760.

An act to provide for the registration of voters in cities now hav-

g or which hereafter may have three hundred thousand inhabitants more; to create the office of election commissioner, provide for s appointment and define his duties; to govern elections in such ities, defining offenses and providing penalties therefor, and to escribe rules and regulations governing registration and elections erein.

The same had passed both branches of the General Assembly; at all other business would be suspended and the bill read at length; at unless objection be made *be* would sign the same, to the end at it become a law, and directed the secretary to read the bill. he bill was read at length by the secretary.

Senator Schweickhardt entered verbal protest to the *sing*ing of ie bill.

The roll was called on the protest and the protest was not sus-ained by the following vote:

Ayes—Senators

Burkhead,	Martin,	Mott,	Rollins,
Busche,	Matthews,	Ramp,	Schweickhardt —8.

Noes—Senators

Anderson,	Farris,	Miller,	Vandiver,
Childers,	Fields,	Morton,	Walker,
Coopers,	Haynes,	Orchard,	Whaley,
Dowell,	Hohenschild,	Tandy,	Wilson,
Drabelle,	McClintic,	Thomas,	Young—22.
Drum,	Marshall,		

Absent—Senators

Clay,	Davisson,	Lyons,	Major—4.

Senator Schweickhardt entered written protest against the signing of house bill No. 760 which was attached to the bill.

Whereupon the presiding officer in the presence of the senate in open session and no other business intervening, affixed his signature thereto, and the bill was immediately returned to the house.

RESPONDENT'S EXHIBIT "D."

Abstract of House Journal.

Friday, March 3rd, page 513.—Mr. Nesbitt introduced house bill No. 760, entitled "An act to provide for the registration of voters in cities now having or which hereafter may have three hundred thousand inhabitants or more; to create the office of election commissioner, provide for his appointment and define his duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein," which was read first time.

Tuesday, March 7th, page 547.—House bill No. 760 was taken up, read second time and referred to committee on elections.

Friday, March 24th, page 760.—Mr. Cardwell, from committee on elections, submitted the following reports:

Mr. SPEAKER: Your committee on elections, to which was referred house bill No. 760, entitled "An act to provide for the registration of voters in cities now having or which hereafter may have three hundred thousand inhabitants or more; to create the office of election commissioner, to provide for his appointment and define his duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein," beg leave to
154 report that it has examined the same and recommends that it do pass with the following amendments:

Committee amendment No. 1:

Amend house bill No. 760 by inserting in line 8 of section 22, and after the word "box," the words "to one of said judges."

Committee amendment No. 2:

Amend section 8 of house bill No. 760 by striking out the word "three" in third line of the original and printed bills, and insert in lieu thereof the word "four," and by striking out the word "one," where it occurs in line 27 of original bill, and in line 25 of printed bill, the word "two."

Committee amendment No. 3:

Amend section 9 in printed bill by inserting after the word "registration," in line 4, the words "of voters in the precinct, and the second day of such registration."

Committee amendment No. 4:

Amend section 8 printed bill, line 2, by inserting the word "held," after the word "election," in said line 8.

Committee amendment No. 5:

Insert after and following section two (2) "said election commissioner shall not take part or participate in the nomination of any candidate for office, or in any party convention for the selection of delegates to any convention, or the nomination of candidates for office;"

Which were read.

Friday, April 6th, page 931.—Mr. Kneisley, from the special-calendar committee, submitted the following report:

Mr. SPEAKER: Your special-calendar committee begs leave to make the following report: House bills for engrossment—533, 590, 401; substitutes, 611, 525, 610, 440, 662, 671, 760, 664, 724.

Saturday, April 8th, page 966.—House bill No. 760 was taken up for engrossment and laid over informally.

Thursday, April 13th, page 1014.—Mr. Kneisley, from calendar committee, submitted the following report:

Mr. SPEAKER: Your calendar committee begs leave to make the following report:

House bills for engrossment—Nos. 644, 769; substitute, 841. Laid over informally—Nos. 234, 266, 351, 190, 281, 184, 186, 280, 211, 457; joint and concurrent resolution No. 6; 305, 365, 366, 403; substitutes 232, 197, 198, 723, 638, 744, 243, 683, 167, 668, 590, 525, 610, 671, 760, 708, 440, 839.

Saturday, April 15th, page 1042.—Mr. Nesbitt called up house bill No. 760 for engrossment. House bill No. 760 was taken up for engrossment. Mr. Charles A. Smith, of St. Louis, moved to lay bill over informally; which was lost. House bill No. 760 was taken up for engrossment. Mr. Hawkins offered the following amendment: Amend house bill No. 760 by striking out all of said bill after the enacting clause, and inserting the following in lieu thereof. (The amendment offered by Mr. Hawkins is set out in full in the journal, but, as it constitutes the bill as passed and embodied in the act of 1899, we do not copy it here.) Mr. James called for the reading in full of the amendment offered by Mr. Hawkins.

Mr. Williams moved to dispense with the further reading of the amendment; which was carried by the following vote: (here follows the names of 47 members voting aye, and 32 members voting no, with 29 members recorded as absent, and the names of 27 members absent with leave, and 5 members reported sick.)

Mr. Sickles moved to adjourn; which was lost. Mr. Jones, of Howell, moved to lay house bill No. 760 over informally. Messrs. Young and Jones, of Howell, demanding the ayes and noes, the motion to lay house bill No. 760 over informally, was lost by the following vote: (here the journal records the names of 28 members voting aye, and 50 members voting no; with 30 members
155 absent, and 27 members absent with leave, and 5 members reported sick.) Mr. Barrett moved the previous question; which was carried. Question being on the adoption of the amendment offered by Mr. Hawkins.

Mr. O'Fallon and Harrison demanded the ayes and noes with the following result: (Here the journal records the names of 51 members voting aye, 7 members voting no, 50 members absent and 27 members absent with leave, 5 reported sick).

From the vote it appeared that there was no quorum present. Mr. Kneisley moved a call of the house which was carried. Mr. Hall, of Saline, moved to enter the names of Messrs. Charles A. Smith, of St. Louis, Pickler and Sullivan, their presence being proven; which was carried. Mr. Hall, of Saline, moved to enter the names of Messrs. Thelineus, Mackenson, Wilson, of St. Louis; Tubbs and James as present; which was carried. (The journal here records the names of 73 members present, and 35 members absent, absent with leave 27 members, 5 reported sick.) The roll disclosing a quorum, all further proceedings, under the call of the house, were dispensed with. Mr. Pickler moved to adjourn; which was lost. The question being on the adoption of the amendment offered by Mr. Hawkins to house bill No. 760, was carried. House bill No. 760, as amended, was then ordered engrossed and printed.

Thursday, April 20th, page 1101.—Mr. Kirby, from the committee on engrossed bills, submitted the following report:

Mr. SPEAKER: Your committee on engrossed bills, to which was referred house bill No. 760, entitled "An act to provide for the registration of voters in cities now having or which hereafter may have three hundred thousand inhabitants or more; to create the office of election commissioner; provide for his appointment and define his duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein," begs leave to report that it has compared the same and finds it to be truly engrossed, and that the printed copies thereof furnished to the members are correct, except in line 3 of section 8 of the printed bill the word "four" should appear instead of the word "three;" which was read.

Thusday, April 20th, page 1106.—Mr. Nesbitt moved to take up house bill No. 760 for third reading and passage; which was carried. House bill No. 760, entitled "An act to provide for the registration of voters in cities now having or which may hereafter have three hundred thousand inhabitants or more; to create the office of election commissioner, provide for his appointment and define his duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein," was taken up, read third time and passed by the following vote: (Here the journal records the names of 75 members voting aye and 53 members voting no, 3 members absent, 4 members absent with leave and 4 members reported sick). Mr. Barrett offered the following amendment to the title of bill: "Amend title to house bill No. 760 by striking out the words "to create the office of election commissioners," where the same occurs in line 3, and insert in lieu thereof the words "to provide for the creation of a board of election commissioners," and by striking out the word "his" in said third line, and insert in lieu thereof the word "its," and by striking out the word "his," in the fourth line and inserting in lieu thereof the word "its," and further amend by adding at the end of the title the words, "and to repeal all acts and parts of acts in conflict or inconsistent herewith;" which was read and adopted.

Title to house bill No. 760, as amended, was agreed to.

Mr. Nesbitt moved to reconsider the vote by which house bill No. 760 was passed.

Mr. Barrett moved to lay that motion on the table; which was carried.

156 Saturday, May 20th, page 1661.—The following message was received from the senate through its secretary, Mr. Roach: Mr. Speaker, I am instructed by the senate to inform the house that the senate has taken up and passed house bill No. 760, entitled "An act to provide for the registration of voters in cities now having and which hereafter may have 300,000 inhabitants or more: to provide for the creation of a board of election commissioners; provide for its appointment and define its duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration

and elections therein, and to repeal all acts and parts of acts in conflict or inconsistent herewith;" which was read.

Monday, May 20, page 1674.—Mr. Coffey, from the committee on enrolled bills, submitted the following report: Also, house bill No. 760, entitled "An act to provide for the registration of voters in cities now having or which hereafter may have three hundred thousand inhabitants or more, to provide for the creation of a board of election commissioners, provide for its appointment and define its duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein, and to repeal all acts and parts of acts in conflict or inconsistent herewith," begs leave to report that it has compared the same and finds them to be truly enrolled;

Which was read.

All business being suspended house bill No. 760, was then read at length, and, no objection being made, the speaker, in open session, in the presence of the house, affixed his signature thereto, as provided by the constitution.

And afterwards, to wit, on the 30th day of January, 1900, the relator files his motion to strike out evidence herein, which said motion is in words and figures as follows, viz:

In the Supreme Court of Missouri, October Term, 1899, February Sitting, Court en Banc.

STATE *ex Rel.* JAMES MCCAFFERY, LAWRENCE D. KINGSLAND, and George J. Kobusch, Relators,
vs.
ISAAC M. MASON, Re-pondent.

Motion to Strike Out Evidence.

Now comes the relator- in the above-entitled cause and moves the court to strike out all of the respondent's evidence for the following reasons:

First. That the same is irrelevant and immaterial.

Second. That the roll of the act as signed by the presiding officers of the two houses of the General Assembly in open session and approved by the governor, is conclusive that the act was legally passed.

Third. Because it is beyond the jurisdiction of the court to inquire into the form of procedure had by the General Assembly in passing the act.

Fourth. Because the court has no authority to interfere or pass upon the constitutionality of the action of one of the co-ordinate branches of the State government, recognized by the constitution, as to the manner in which constitutional provisions, affecting the proceedings of legislation, shall be carried out.

Fifth. Because the constitution provides a means by which each

house of the General Assembly shall be the final judge before a bill is signed by the presiding officers thereof, as to whether all the provisions of the constitution, mandatory or otherwise, regarding the introduction and passage of an act through the General Assembly, have been complied with.

157 Sixth. Because Exhibits "A," "B" and "E," introduced by defendant, pertain to matters not contained in the journals of either house.

EDWARD C. CROW, *Att'y Gen.*,
SAM. B. JEFFERIES,
For Relators.

W. J. STONE, *Of Counsel.*

And afterwards, to wit, on the 8th day of February, 1900, the further following proceedings were had in said cause, viz:

STATE *ex Rel.* JAS. MCCAFFERY, Rel.,
v.
I. M. MASON, Resp.

Come now the said parties, by attorneys, and after argument herein submit this cause to the court.

And on the same day the following stipulation was filed in said cause, viz:

STATE OF MISSOURI, *ss:*

In the Supreme Court.

STATE OF MISSOURI *ex Rel.* JAMES MCCAFFERY ET AL.
Plaintiff-,
vs.
ISAAC M. MASON, Respondent.
} Mandamus.

It is hereby stipulated and agreed between the parties hereto that the following may be considered by the court as evidence offered by the relators, subject only to the right of the respondent to object thereto on the ground of relevancy and materiality:

First. So much of the journals of the senate and the house of representatives of the 40th General Assembly of the State of Missouri as contain and set forth the rules adopted by the two bodies for their government.

Second. So much of Jefferson's Manual of Parliamentary Practice and a Digest of the Rules and Practice of the House of Representatives of the United States, prepared by Nathaniel T. Crutchfield and adopted at the second session of the 53rd Congress, as relate to the amendment of titles.

To the second offer respondent makes additional objection of in competency.

158 EDWARD C. CROW, *Att'y Gen'l*,
SAM. B. JEFFRIES,
Ass't Att'y Gen'l,
W. J. STONE,
Attorneys for Relators.
B. SCHNURMACHER,
GEO. D. REYNOLDS,
NOBLE & SHIELDS,
MORTON JOURDAN,
Attorneys for Respondent.

And afterwards, to wit, on the 13th day of March, 1900, the further following proceedings were had in said cause, viz:

STATE OF MISSOURI at the Relation of JAMES McCaffery, Lawrence D. Kingsland, and George J. Kobusch, Relators,
vs.
ISAAC M. MASON, Auditor of the City of St. Louis, Respondent.
} Mandamus.

Now, at this day, come again the parties aforesaid, by their respective attorneys, and the court here, being now sufficiently advised of and concerning the premises, doth consider and adjudge that the preemptory writ of mandamus prayed for herein be, and the same is hereby, awarded, and that the said relators recover against the said respondent their costs and charges herein expended and have therefor execution.

(Opinion filed.)

Which said opinion is in words and figures as follows, viz:

159 In the Supreme Court of Missouri, October Term, 1899, Court in Banc.

STATE *ex Rel.* JAMES MCCAFFERY ET AL., Relators,
vs.
ISAAC M. MASON, Auditor, &c.
} Mandamus.

Opinion.

This is an original proceeding in this court, its object being to compel the city auditor to audit a certain bill of expenses incurred by relators, as the board of election commissioners, in and about the performance of their official duties in their capacity as such commissioners.

The return of the city auditor, giving reasons for refusing to audit the bill in question, states in substance that the law under which such election commissioners were appointed and are acting is constitutionally invalid for that in the course of its passage such

proceedings were had as violated the constitution of this State in several particulars.

The objections thus raised to the constitutional validity of the litigated act will now be discussed. That act is known as house bill No. 760, and is entitled "An act to provide for the registration of voters in cities now having or which hereafter may have three hundred thousand inhabitants or more; to provide for the creation of a board of election commissioners, provide for its appointment and define its duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein and to repeal all acts and parts of acts in conflict or inconsistent herewith." Laws 1899, 179.

Section 37 of article IV of the constitution declares that "No bill shall become a law until the same shall have been signed by the presiding officer of each of the two houses in open session; and before such officer shall affix his signature to any bill, he shall suspend all other business, declare that such bill will now be read, and that, if no objection be made, he will sign the same to the end that it may become a law. The bill shall then be read at length, and if no objections be made, he shall, in the presence of the house in open session, and before any other business is entertained, affix his signature, which fact shall be noted on the journal and the bill immediately sent to the other house. When it reaches the other house, the presiding officer thereof shall immediately suspend all other business, announce the reception of the bill, and the same proceedings shall thereupon be observed, in every respect, as in the house in which it was first signed. If in either house any member shall object that any substitution, omission, or insertion has occurred, so that the bill proposed to be signed is not the same in substance and form as when considered and passed by the house, or that any particular clause of this article of the constitution has been violated in its passage, such objection shall be passed upon by the house, and if sustained the presiding officer shall withhold his signature; but if such objection shall not be sustained, then any five members may embody the same, over their signatures, in a written protest under oath against the signing of the bill. Said protest, when offered in the house, shall be noted upon the journal, and the original shall be annexed to the bill to be considered by the governor in connection therewith."

Commenting on that portion of the organic law, when it first came under review and within four years after the adoption of the constitution, this court said:

"We are convinced that the initial clause of the section that 'no bill shall become a law until the same shall have been signed by the presiding officer of each of the two houses in open session' is mandatory, though it is quite evident that the mandate of the constitution would be obeyed, so far as concerns proper authentication of the bill, when it receives the signature of the respective presiding officers in open session; but we do not regard the other clauses of the section under review as mandatory, for it i

to be observed that those clauses do not declare that 'no bill shall become a law' if the presiding officers or the members fail to perform the duties which the residue of the section imposes, but the only penalty directly expressed is that contained in the initial clause just noted. No inference is, however, to be drawn from this that the residue of the section is not to be obeyed, for certainly the duties it enjoins are clearly set forth. The framers of the constitution were evidently of the opinion that they might safely intrust the supervision of the details specified in the remaining clauses of the section to the members of the General Assembly, or else they would have never ordained that any member might by his objection impede the progress of legislation and arrest the signature of the presiding officer to the pending bill on the ground that some unwarranted omission, substitution, or insertion had occurred or that some provision of the constitution had been violated. Herein lies, in our opinion, the only constitutional corrective for a failure to observe the provisions of the remaining clauses of the section under discussion and to yield a ready obedience to them.

If it be said that this construction leaves it optional with the legislature whether they shall comply with the explicit commands of the other clauses of the section, the obvious reply is that confidence must be reposed somewhere; that the very nature of republican government demands and presupposes it; that if the trust thus reposed is not well founded, that if integrity is not to be found among the legislative representatives of the people, it would be
but an easy matter by a simulated observance of constitu-
162 tional forms in the registry of falsehoods upon the journals
to evade and defeat the most rigid provisions of the organic law that the wit of man is capable to devise.

As no objection or protest is 'noted on the journal' of either branch of the General Assembly, the only natural and reasonable conclusion for us to reach is that benign conclusion of the law itself, sanctioned by the wisdom of ages, which presumes in favor of right, and not in favor of wrong. Similar presumptions are daily indulged in respecting judicial proceedings, and no reason occurs why a similar liberality of inference should not obtain in regard to legislative proceedings in many instances. Viewing the subject in this light, we regard it unimportant that the journals of the respective houses do not disclose that strict observance of formality which should properly attend the passage of a bill through its various legislative stages, as, for instance, that the presiding officer suspended all other business and declared that such bill would then be read, and that if no objections were made he would sign the same, to the end that it might become a law, nor that the bill was immediately sent to the other house. Counsel for respondent fails to observe that section 37, while requiring these things to be done and these forms to be observed, nowhere requires that they be noted on the journal, the only facts requisite to be noted there, as specified in that section, being that of the signing of the bill and of any protest that may be offered." State *v.* Mead, 71 Mo., loc. cit., pp. 271-'2.

Mead's case received the unanimous approval of the members of this court, and was approvingly followed in State *ex rel. v.* Field, 119 Mo., 593.

Under these rulings it must be held that in the absence of a protest, as already indicated, pointing out in what particulars
163 the constitution has been violated during the passage of the bill, that it will be presumed that the legislature was not remiss in its duty in that regard, though the journals may have failed affirmatively to record the performance of such duty. This presumption forecloses any investigation as to what occurred during the progress of the bill either as to the occurrence of any substitution, omission, or insertion, while on its passage, unless it be the failure to conform to some mandatory requirement of the constitution like that pointed out in Mead's case, when discussing the initial clause of section 37, *supra*, which fails to make entry on the journal of the recital of obedience to such mandatory requirement; but it is obvious that these constitutional provisions which were designed to set forth the formulæ incident to the passage of a bill are wholly separate and apart from considerations which go to the constitutionality of a bill, regardless of the strictest conformity to constitutional requirements which may have marked its course from its embryonic stage down to its final passage and approval.

In this case, however, a protest was entered; it is on the point that the act mentioned is invalid because it is a local and special law, and no notice, &c., was published nor recited in the act, and that therefore it violates section 54 of art. IV of the constitution. If the charge thus made in the protest holds, then the law must be deemed invalid. In support of this theory of the law's invalidity, it is asserted by respondent's counsel that "the Nesbit law is a special act for the reason that it is not uniform in its operation upon a class of cities or communities having 300,000 inhabitants or more, and separates cities not within counties in important particulars from those that are within counties. Thus, it is enacted, sec.
46, Laws of Mo. 1899, p. 196: 'In all cities not within coun-
164 ties such election commissioners, etc., shall be paid by the city, etc., etc.' The constitution primarily makes no such distinction, but requires the legislature to provide for the registration of voters in all cities and counties of more than 100,000 inhabitants. This is the fundamental class.

The Nesbit act, we think, unconstitutionally provides for registration 'in all cities of this State now having or which hereafter may have three hundred thousand inhabitants or more.'

'When such a law has within its provisions that develop the intent to fasten it on a part of a class only, it will be decided illegal and void, and this is done when a particular city of the class 100,000 inhabitants or more is required to pay a different proportion of liability because of its separation from a county.' State *ex rel. v.* Herman, 75 Mo., 340; State *ex rel. v.* Jackson Co. Court, 89 Mo., 237; Murnane *v.* St. Louis, 123 Mo., 479.

The Nesbit act (section 3) makes provision for the vacation of the offices of election commissioners in cities now having 300,000 popu-

lation. It makes no provision for the vacation of such offices in cities which shall hereafter reach 300,000 population. In this it does not provide for future conditions, but applies solely to present ones; the exact test applied to the notary law by this court in the Hermann case, 75 Mo., 340, on which that law was held unconstitutional because special. The provision is 'said board of election commissioners shall perform all the duties and take the place of the present board of election commissioners of such cities immediately after this act becomes a law. The offices and boards of election commissioners, as now constituted and existing in such cities to which this act applies, are hereby abolished and the commission of such election commissioners hereby revoked'—that is, no provision is made to extend the act to cities hereafter acquiring 300,000 population."

And section 5 of article VIII of the constitution is quoted,
165 which reads as follows: "The General Assembly shall provide by law for the registration of all voters in cities and counties having a population of more than 100,000 inhabitants and may provide for such registration in cities having a population exceeding 25,000 inhabitants and not exceeding 100,000 but not otherwise."

Under this provision of the constitution it was entirely competent to enact the law now under consideration, because by that section of the organic law power is expressly bestowed on the legislature and they are commanded to "provide by law for the registration of all voters in cities and counties having a population of more than one hundred thousand inhabitants;" and the power being granted, all means necessary to its effectuation went with it as incidents, and were part and parcel of the principal grant of power. *Ex parte* Marmaduke, 91 Mo., loc. cit., 262 and cas. cit. To the same effect see Sutherland Stat. Construct., sec. 341; 2 Beach Pub. Corp., § 1314; State *v.* Wilson, 87 Tenn., 697; Moulton *v.* Reid, 57 Ala., 325; Parker *v.* Way, 15 N. H., 51; 9 Bac. Ab., 219–'20; People *v.* Eddy, 57 Barb., 593. With such power conferred, no limitation was laid upon the legislature as to the number of population which any given city or county should contain in excess of one hundred thousand inhabitants. This language is too plain for discussion. As to the other words of the constitutional section, they are simply permissive, and their meaning is that the legislature are allowed, if they see fit, to enact similar laws respecting cities having a population exceeding 25,000 and not exceeding 100,000. As to the concluding words of the section, "but not otherwise," they simply permit legislation for registration in cities where the population exceeds 25,000 and does not exceed 100,000, and in the very section under review the constitution separates and distinguishes cities in counties having more than one hundred thousand inhabitants from those
166 cities having a population less than one hundred thousand and more than twenty-five thousand inhabitants.

And the legislature had the right to require cities not within counties to pay for election expenses. If they had not such right, then it would follow that such expenses could not be paid at all, as

under the general law such expenses are to be defrayed by the respective counties. Besides, under the statute respecting the construing of laws, it is declared that "whenever the word county" is used, * * * "the same shall be construed to include the city of St. Louis." * * * § 6570, R. S. 1889.

Moreover, in State *v.* Board of Education, 141 Mo., 49, this court held that "the legislature has control over the revenues of the city as over that of a county and State, and can direct by law that the expense of elections held in a municipality for the election of school directors or for local purposes shall be paid out of the treasury of the municipality from taxes levied and collected by municipal authorities." To the same effect see State *v.* Field, 119 Mo., loc. cit., 614; State *v.* Owsley, 122 Mo., 68.

It is further urged in opposition to the Nesbit law that section 3 of that act "makes provision for the vacation of the offices of election commissioners in cities now having 300,000 population; it makes no provision for the vacation of such offices in cities which should hereafter reach 300,000 population. In this it does not provide for future conditions, but applies solely to present ones; the exact test applied to the notary law by this court in the Hermann case, 75 Mo., 340, on which that law was held unconstitutional because special." There is this answer to this contention: In the first place, section 1 of the statute treats of "cities of this State now having or which hereafter may have three hundred thousand inhabitants or more," and the title of the act applies only to such cities. In such circumstances the character of the
167 act is stamped upon it by its first section. It was unnecessary, therefore, to mention or repeat in each or in any succeeding section cities which might thereafter have a population of 300,000 inhabitants or more. The law would imply this, and whatsoever the law will imply is as much part and parcel of a legislative enactment as though in terms inserted therein. State *ex rel.* Lemon *v.* Board, 108 Mo., 235; State *ex rel. v.* Walbridge, 119 Mo., loc. cit., 395; Coonce *v.* Munday, 3 Mo., 374; Han. & St. Jo. R. R. Co. *v.* Marion Co., 36 Mo., 294; Sutherland Stat. Constr., § 334.

In the second place, it is insisted that the Nesbit law violates section 7 of article IX of the constitution by the formation of a new class of cities within the first class, and is therefore in violation of that section of the constitution just mentioned, which limits the number of such classes to four, and declares that "the power of each class shall be defined by general laws, so that all municipal corporations of the same class shall possess the same powers and be subject to the same restrictions," and Murnane's case is cited as supporting this view, which it undoubtedly does.

Answering this objection on a former occasion it was said in the dissenting opinion in Door's case, 145 Mo., loc. cit., 499: "The constitution has made no exceptions to its general grant of power to the legislature, and the courts, without judicial usurpation, can make none; but it is urged that if you admit the power of the legislature by general law to amend the charter of the city of St. Louis, you thereby change the classification of the cities of this

State as provided for in section 7 of article IX of the constitution; but it is enough to say of such section that it has nothing whatever to do with the city of St. Louis, since that city is by the constitution singled out and segregated from all other cities in this State, by express mention by name, as well as by peculiar and special provisions shared by no other city. That section has no
168 more to do with the city of St. Louis than has section 16 of the same article, which confessedly has no application to that city, and no more has section 17."

But this theory respecting our constitution fell upon deaf ears and was not regarded as worthy a moment's consideration. Subsequently, however, Stegmiller's case come up here for adjudication (52 S. W., loc. cit., 726), whereupon it was said: "Again, we think it is plain that the framers of the constitution *ex vi termini* excluded from this legislative classification the city of St. Louis, which is expressly authorized to adopt its own scheme and charter, and all such cities as it authorized by section 16, art. 9, to frame and adopt their own charters. These cities constitute two constitutional classes distinct from those chartered and classified by the legislature. It follows that the legislature may legislate directly for these constitutional cities without infringing the constitution, and in legislating therefor it does not create a new class, but simply provides for a class created by the constitution."

With this interpretation of the constitution the members of this court then present in banc agreed, but no mention was made of Murnane's case, nor that it was overruled or in any manner questioned, nor of the fact that the dissenting opinion aforesaid had first advanced the same theory as that finally adopted in Stegmiller's case, *supra*.

Afterwards Stegmiller's case was followed in State *ex rel.* Hawes *v.* Mason (not yet reported) in banc, where it was said: "So much of the argument indulged in to demonstrate that the act under consideration is a special and not a general law is inapplicable to legislation of this character. St. Louis is organized directly under the constitution. It is not in either of the four classes which have been defined by the legislature under the constitution. It
169 would have been entirely appropriate for the legislature to have designated St. Louis by name instead of referring to it as a city of over three hundred thousand inhabitants," and in this opinion all the members of this court then present incontinently concurred; but the case in 123 Mo., 479, was passed *sub silento*, without as much as a nod of recognition.

Under these rulings Murnane's case, in so far as concerns the classification idea as applied to the city of St. Louis, must be regarded as no longer authoritative.

Passing now to other sections of article IV of the constitution said to have been violated in the passage of the Nesbit law, we look at section 25, which provides that "No law shall be passed except by bill, and no bill shall be so amended in its passage through either house as to change its original purpose." This purpose means the general purpose of the bill, not the mere details through

which and by which that purpose is manifested and effectuated. Were this otherwise it is easy to see that the process of legislation would be seriously hampered and embarressed by every amendment which might be offered, however germane it might be to the idea as formulated in the first draft of the bill. In addition to that, section 25 must be considered in connection with section 37 aforesaid, and inasmuch as no protest was offered, based on the prohibition of section 25 in relation to substitution, omission, or insertion, which are but other forms of amendment, it must needs follow that in contemplation of law no unwarranted substitution, &c., occurred pending the passage of the bill.

The Nesbit law is also assailed on the ground of violating section 31, which declares, "No bill shall become a law, unless, on its final passage, the vote to be taken by yeas and nays, the names of the members voting for and against the same be entered on the journal and a majority of the members elected to each house be re-
170 corded thereon as voting in its favor." In Mead's case, *supra*, this section was held to be mandatory. Looking into the evidence offered by respondent, his Exhibit "D," at page 1106, containing the entries of the journal of the house of representatives of Thursday, April 20, 1899, shows that house bill No. 760, which is the bill in question, was, on motion of Mr. Nesbit, taken up for third reading and passage. The bill was read a third time and then passed by a vote of 75 members, with 53 voting in opposition thereto, 3 members absent, 4 members absent with leave, and 4 members reported sick. We will take judicial notice that the house of representatives is composed — 140 members. This being the case, it is obvious that house bill No. 760, the name by which the bill was known and identified, received the requisite constitutional majority.

Respondent's Exhibit "C," showing the entries of the journal of the senate, affecting the passage of the bill through the senate, shows that on Saturday, May 20, 1899, house bill No. 760 was placed on third reading and passage. The roll was called and the bill passed by 22 members voting in favor thereof and 10 members voting against it. Judicial notice is also taken of the fact that the senate consists of 34 members, and that consequently the bill carried by the requisite majority.

The exhibits offered in evidence by respondent also show that section 37 was complied with in both houses as to the signing of the bill. The mandatory provisions of section 54 of art. IV having been complied with, it is wholly immaterial under former rulings, so for as concerns the validity of the law, whether house bill 760 went through the precise course prescribed by other sections of that article of the constitution or not, as those sections are non-mandatory, and among that number is section 38 in regard to the presentation of the bill to the governor by the clerk, and the failure
171 of the latter to note the fact on the journal. The presumption is in favor of the proper presentation of the bill and of its timely signature. State *v.* Mead, *supra*. The same presumption holds as to all the other non-mandatory sections pleaded in respondent's return.

As to sufficiency of the title of the act, this is affirmed by Mead's case, *supra*; State *v.* Blackstone, 115 Mo., 427; St. Louis *vs.* Weitzel, 130 Mo., 600; State *v.* Slover, 134 Mo., 10; State *v.* Bockstruck, 136 Mo., 335.

Respondent also asserts that house bill 760 violates the following clauses of section 53 of art. IV of the constitution: Because it is a local or special law, 2, regulating the affairs of counties, cities, &c.; 11, for the opening and conducting of elections, or fixing or changing the places of voting; 14, creating officers, or prescribing the powers and duties of officers in counties, cities, townships, election or school districts; 32, forbidding the passage of a local or special law where a general law can be made applicable and making it a judicial question, &c. All of these objections are answered by the adjudications in Kansas City *v.* Stegmiller and Hawes *v.* Mason, *supra*, that St. Louis stands alone, and that a law designating that city by name would be valid and a general law. State *v.* Miller, 140 Mo., 439. The law is general for the further reason that it makes provision for the future not only for cities now having a population of 300,000 or more, but for such cities which in the future may attain a like population.

Further objections are made to the law on the ground that it is in opposition to sections 2, 5, 8, 10, and 12 of article VIII of the constitution, as follows:

"SECTION 2. Every male citizen of the United States, and every male person of foreign birth, who may have declared his in-
172 tention to become a citizen of the United States according to law, not less than one year nor more than five years before he offers to vote, who is over the age of 21 years, possessing the following qualifications, shall be entitled to vote at all elections by the people: First. He shall have resided in the State one year immediately preceding the election at which he offers to vote. Second. He shall have resided in the county, city or town where he shall offer to vote, at least 60 days immediately preceding the election.

SECTION 5. The General Assembly shall provide by law for the registration of all voters in cities and counties having a population of more than 100,000 inhabitants, and may provide for such registration in cities having a population exceeding 25,000 inhabitants and not exceeding 100,000, but not otherwise.

SECTION 8. No person while kept at any poor-house or asylum at public expense, nor while confined in any public prison, shall be entitled to vote at any election under the laws of this State.

SECTION 10. The General Assembly may enacts laws excluding from the right of voting all persons convicted of felony or other infamous crime or misdemeanors connected with the exercise of the right of suffrage.

SECTION 12. No person shall be elected or appointed to any office in this State, civil or military, who is not a citizen of the United States and who shall not have resided in this State one year next preceding his election or appointment."

Section 5 of that article has already received sufficient discussion showing its mandatory nature; that it confers full power on the

legislature to require the municipality to pay the cost of elections held therein, and that such legislation is not special, but general in its nature, and not at war with the classification theory; and it may be further said that the act under review does not at
173 all militate against the constitutional right of any citizen otherwise eligible to vote. Registration laws grow more in favor as the years go by as tending to prevent fraud and thereby preserve the purity of the ballot-box. On this topic Judge Cooley observes:

"The provision for a registry deprives no one of his right, but is only a reasonable regulation under which the right may be exercised. Such regulations must always have been within the power of the legislature, unless forbidden. Many resting on the same principles are always prescribed, and have never been supposed to be open to objection. Although the Constitution provides that all male citizens twenty-one years of age and upwards shall be entitled to vote, it would not be seriously contended that a statute which should require all such citizens to go to the established place for holding the polls and there deposit their ballots, and not elsewhere, was a violation of the constitution because prescribing an additional qualification, namely, the presence of the elector at the polls. All such reasonable regulations of the constitutional right which seem to the legislature important to the preservation of order in elections, to guard against fraud, undue influence, and oppression, and to preserve the purity of the ballot-box, are not only within the constitutional power of the legislature, but are commendable, and at least some of them absolutely essential." Const. Lim. (6th ed.), 757–'8.

Of the law in question it is said by respondent that it "deprives the citizens of the United States residing in the city of St. Louis of their right to the equal protection of the laws and imposes on citizens of said city unconstitutional requirements as preliminary to their right to vote and hold office, and is null and void." This assertion is amply answered by the quotation already made from an eminent author and jurist, and it may be further answered in this way: Section 11 of the controverted act, in so far as it pre-
174 scribes the preliminary qualifications as to residence in order to entitle a citizen to vote, is the following:

"SEC. 11. Every male citizen of the United States, and every [male] person of foreign birth who may have declared his intention to become a citizen of the United States according to law, not less than one year nor more than five years before he offers to vote, who is over the age of twenty-one years, who has resided in the State one year next preceding the election at which he offers to vote, and during the last sixty days of the time shall have resided in the city where such election is held and during the last twenty days of that time in the precinct at which he offers to vote, * * * shall be entitled to vote at such election, for all officers, State or municipal, made elective by the people, or at other elections held in pursuance of the laws of the State, but shall not vote elsewhere than in the

precinct where his name is registered, and whereof he is registered as a resident."

This section is just the same as section 20 of what is known as the "Filley act," approved May 31, 1895, laws of that year, extra session, p. 5, and, with the exception of the bracketed word in section 11, the law was the same in 1889. Rev. Stats. that year, § 988.

The law of Ohio is substantially the same on this point as our own statute as to unmarried men, except that it requires a voter to have been resident of the county for 30 days and resident of the township, village, or ward of a city or village for 20 days next preceding the election. As to a voter who is the head of a family, greater privileges are accorded; *bona fide* removals from one ward of the city, &c., to another ward or to another township or village in the same county, and *vice versa*, are permitted. 1 Bates Annot. Stats. Ohio, § 2945.

In Kentucky the statute is in the language of the constitution of that State, and requires a residence in the State for one year, in the county six months, and in the precinct 60 days. Kentucky Stats., 1894, § 1439.

In Illinois the language of the statute following that of the State constitution requires a residence in the State for one year, in the county 90 days, and in the election district 30 days. 2 Starr & Curtis Annot. Stats. Ill., 1652, § 66.

In Massachusetts the constitutional and statutory requisites as to time of residence prior to voting are one year in the State and six months in the town or district, thus differing from similar regulations in Kentucky only in the fact that in the latter 60 days' residence is required in the precinct, so that it will be noted that the preliminary requirements as to the right to vote in this State are not more stringent, at least as to single men who offer to vote, than those in the State of Ohio.

But whether they were or not does not signify, since, as remarked by an author on the subject under discussion, "the power to provide for the orderly exercise of the right of suffrage, which we have seen belongs to the State legislature, includes the power to enact registry laws and to prohibit from voting persons not registered. It is now generally admitted that these laws do not add to the constitutional qualifications of voters and are therefore not invalid." McCrary on Elections (4th ed.), § 127.

In Illinois, where the act required registration to be complete by the third Tuesday before the election, it was held constitutional, the court remarking: "If it be admitted that the legislature can require a voter to establish his qualifications before election, it is difficult to see why, upon principle or as a question of power, it cannot require such proof to be made as well three weeks before the day of voting as ten days, or five days, or even one day prior thereto. The
176 real question involved in the objection is whether any man can be prevented from voting who proves, or offers to prove, on the day on which he seeks to cast his ballot that he is a legal voter. If cases can be supposed where the 'three-weeks' requirement will deprive qualified electors of the privilege of depositing

their votes, cases can also be supposed where one day's requirement will work the same result. This mode of reasoning carried out to its logical sequence will make any kind of a registry law unconstitutional. For it would be a physical impossibility for the judges of election to receive the votes and make up the registry at the same time and on the same day." People *v.* Hoffman, 116 Ill., 587.

The constitution of that State requires "all elections shall be free and equal," and yet in that case it was ruled that this declaration "does not necessarily mean that there must be uniformity of regulation in regard thereto in all portions of the State. Certain regulations may be prescribed for the conduct of elections in cities and villages, though they may have no application to the country places."

It will be found upon examination that the great current of authority flows in the direction of holding it entirely competent for the legislature to regulate registration and the conduct of elections in the manner above indicated, the origin of these rulings being Capen *v.* Foster, 12 Pick., 587; see also State *ex.* Butts, 431 Kas., 537; Weil *v.* Calhoun, 25 Fed., 865; *In re* Polling Lists, 13 R. I., 729; Patterson *v.* Barlow, 60 Pa. St., 54; Myers *v.* Moffet, 2 Bart. Elec. Cas., 564.

And in relation to voters in St. Louis being denied "the equal protection of the laws" by the controverted statute, this charge may be answered and refuted by the language of Mr. Justice Bradley in Missouri *v.* Lewis, 101 U. S., loc. cit., 31: "We might go still further and say, with undoubted truth, that there is nothing in the Constitution to prevent any State from adopting any system
177 of laws or judicature it sees fit for all or any part of its territory. If the State of New York, for example, should see fit to adopt the civil law and its method of procedure for New York city and the surrounding counties and the common law and its method of procedure for the rest of the State, there is nothing in the Constitution of the United States to prevent its doing so. This would not of itself, within the meaning of the fourteenth amendment, be a denial to any person of the equal protection of the laws. If every person residing or being in either portion of the State should be accorded the equal protection of the laws prevailing there, he could not justly complain of a violation of the clause referred to, for, as before said, it has respect to persons and classes of persons. It means that no person or class of persons shall be denied the same protection of the laws which is enjoyed by other persons or other classes in the same place and under like circumstances."

In concluding this portion of the opinion it may be well enough to say that in their general features most of the election laws of our neighboring States, as well as of our own, appear to be in their general features and design the same, to wit, that of preventing fraud and of making it more difficult to defeat the will of the people as recorded or as intended to be recorded at the polls.

In Ohio, for instance, the secretary of state is *ex officio* "State supervisor of elections," and he appoints 4 deputy supervisors in each county in the State of different political parties, and they, in

counties where no registration is done, appoint judges and clerks of each political party for service at elections. In cities of the first and second classes a board of elections is appointed by the mayor, and they shall be equally of the leading political parties, and they
178 appoint registrars, judges, and clerks of each of the two leading political parties to attend at elections in such cities.

In Illinois the "board of election commissioners" is appointed by the county court. They serve in every city, village, and incorporated town. Such commissioners must be three in number, two of them of the leading political parties. Such commissioners select three electors, who are to act as election judges for each precinct, and the two leading political parties are to have one judge each and one of the clerks, and these number vary as to judges and clerks as to the leading political party represented by a minority of all the commissioners. The board of election commissioners appoint a chief clerk and have other clerical assistants.

In this State, under the act in question, the governor appoints a "board of election commissioners," three in number. This is done by and with the advice and consent of the senate. One of these commissioners is required to be of the opposite political party to which the governor belongs. Such commissioners are required to give bond, with security in the sum of $10,000, for the faithful performance of their duties. These commissioners appoint and commission one deputy election commissioner, who is to be the secretary of the board, and he may employ other clerical assistants if necessary. These commissioners select and choose four electors as judges of election for each precinct and two clerks, and "two of said judges and one of said clerks of election shall belong to and be members of the party of opposite politics to the other two judges and clerks."

In Kentucky, under what is commonly called the "Gobel law," the General Assembly elects "the State board of election commissioners." This board appoints a secretary. This board appoints for each county in the Commonwealth, styled the "county board of election commissioners." This county board appoints for each election precinct "two judges, one clerk, and one sheriff of
179 election," and they "shall be so selected and appointed as that one of the judges at each place of voting shall be of one political party and the other of a different party, and there shall be the like difference at each voting place between the sheriff and clerk of election." This summary of the election laws of three States, besides our own, does not disclose any very marked differences between these laws in general outline and operation. If honestly and faithfully administered the result will be in accordance with such proper administration. If otherwise administered the result will be such as might attend the operation of the most carefully drafted law; but certainly it would seem with an even division of the judges and clerks in political opinion at each election precinct that a considerable safeguard is thrown around the purity of the ballots at the polls and the prevention of fraudulent returns being made.

Respondent further contends that inasmuch as the Nesbit law professedly repeals the act entitled "An act to create a board of elec-

tion commissioners," approved May 31st, 1895, and this act is approved June 19th, 1899, and what is known as the Cardwell act in relation to cities having over one hundred thousand inhabitants, which purports to amend said act of 1895, and was approved also on June 19th, 1899, that therefore the repeal of the act aforesaid was not accomplished. In reference to this it is enough to say that the Cardwell act is not before us for adjudication; that so far as concerns the Nesbit act, it does repeal the act of 1895. Whether it be possible to amend an act and make it a valid law taking effect on the day its repeal is accomplished by another act is not involved in the issues now before us, and any utterance we might make on the subject would be wholly *obiter*. We shall therefore decline to consider or rule the point.

Finally, section 46 of the Nesbit law, as already stated, gives full authority (even if it would not be granted by necessary
180 and inevitable implication, as aforesaid) to compel the city to pay the expenses incurred by the election commissioners, and ordinance 19835, known as "Relators' Exhibit 2," shows the sum of $75,849.25 was appropriated by the municipal assembly for "election and registration" purposes. This being the case, section 46, *supra*, takes hold of the appropriation thus made and will disburse it as occasion may require.

The premises considered, we award the peremptory writ.

All concur—Burgess and Marshall, JJ., in toto; Gantt, C. J., and Brace and Valliant, JJ., in all except the remarks about the Murnane case.

T. A. SHERWOOD, *J.*

In the Supreme Court of Missouri, in Banc, October Term, 1899.

STATE *ex Rel.* MCCAFFERY ET AL.
v.
I. M. MASON.

Separate Opinion of Gantt, C. J., and Brace and Valliant, JJ.

We concur in the opinion, save and except so much thereof as declares the Murnane case overruled.

In our opinion, the constitution commands the General Assembly to provide a system of registration of voters in all cities having a population of more than one hundred thousand inhabitants, and there is no provision of the organic law requiring the General Assembly to classify cities for that purpose, as there is in providing charters for the various classes of cities, and hence we respectfully submit that the discussion of section 7 of article IX of the constitution in this case is not relevant.

181 We have no doubt whatever that it is entirely competent for the legislature in its wisdom by general laws to provide one system for cities having over one hundred thousand inhabitants and less than three hundred thousand, and other regulations for cities having three hundred thousand inhabitants and over.

The people by the constitution conferred the legislative power upon the General Assembly, subject to the limitations therein contained, and there is no such limitation as that claimed by respondent.

The classification theory has nothing to do with the case, and the act in this respect violates no article of the constitution.

The power to regulate elections is a governmental function and the city of St. Louis is just as much subject to the laws of the State in this regard as any other county or city of the State. The Murnane case involved a change of the character of the city of St. Louis in respect to a municipal function. The discussion of that case, in our opinion, is therefore *obiter*.

With this exception we fully agree in the very able opinion of our learned brother.

And afterwards, to wit, on the 22nd day of March, 1900, the further following proceedings were had in said cause, viz:

STATE *ex Rel.* JAS. MCCAFFERY ET AL., Rel.,
v.
I. M. MASON, Resp.

Comes now the said respondent, by attorney, and files his motion for a rehearing herein.

Which said motion is in words and figures as follows, to wit:

In the Supreme Court of Missouri, in Banc, October Term, 1899.

182 STATE *ex Rel.* JAMES MCCAFFERY, L. D. KINGSland, and George J. Kobush, Relators,
versus
ISAAC M. MASON, Auditor City of St. Louis, Missouri, Respondent. } No. 9951.

Original Proceeding for Mandamus.

Now, at this day, comes Isaac M. Mason, auditor of the city of St. Louis, Missouri, respondent herein, and moves the court to grant him a rehearing in the above-entitled cause for the reasons, 1st, that questions decisive of the case and duly submitted by counsel have been overlooked by the court; and, 2nd, that the decision is in conflict with the provisions of the constitution of the State of Missouri; and, 3rd, that it is in conflict with the first section of the fourteenth amendment to the Constitution of the United States; and, 4th, that it is in conflict with controlling decisions of this honorable court, all as hereinafter more particularly specified, to wit:

(1.) The court overlooked the fact that the return of the respondent to the alternative writ and the journal of the house and senate affirmatively show that house bill No. 760, as it passed the house, entitled "An act to provide for the registration of voters in cities now having or which hereafter may have 300,000 inhabitants or

more; to provide for the creation of a board of election commissioners, provide for its appointment and define its duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein, and to repeal all acts and parts of acts in conflict or inconsistent therewith," did not pass the senate at all, but, on the contrary, the bill which passed the senate by a
183 call of the ayes and noes, as required by the constitution, was entitled "An act to provide for the registration of voters in cities now having or which hereafter may have 300,000 inhabitants or more; to create the office of election commissioner, provide for his appointment and define his duties to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein;" and, furthermore, that the president of the senate, according to the senate journal, did not sign house bill # 760 as it passed the house, but did sign a bill with a different title, to wit, the bill which was passed by the senate under the title last aforesaid.

(2.) The court in holding that in the absence of a protest pointing out in what particulars the constitution has been violated during the passage of the bill, and that it will be presumed that the legislature was not remiss in its duties in that regard, though the journals may have failed affirmatively to record the performance of such duty, and commenting on the protest which was filed to the act as a local and not a general act, as if the members of the senate who filed this protest, having based it on this ground alone, were precluded or this respondent is now precluded from making the points now urged against the law, overlooked the fact, shown by the record, that the members of the senate had no opportunity to protest against the signing of a bill under the title of the bill passed by the house, for it appears affirmatively by the senate journal that the only title ever read or heard of in the senate was the original title. Hence no member of the senate could possibly have known that the bill about to be signed by the president of the senate bore a different title. The court also overlooked the fact that the absence of any protest in the senate on the ground of fatal variance in the title is not only presumptive but positive evidence that none
184 of the opponents of this bill (and the journals of the senate shows it was hotly contested) knew or had any cause to suspect that the bill about to be signed by the president of the senate and claimed to have been signed by him bore any title other than that of the original bill, a title by which the bill had been read and referred to on every single occasion on which it was before the senate, from its first reading to its final signature. The court overlooked the fact that having no notice of a change of title, the members of the senate could not protest against the signature thereof on the ground that the title had been changed or was other than that which, according to their own journal, the bill appeared to have.

(3.) The court held that section 31 of article 4 of the constitution, providing for taking the vote on the final passage of a bill by yeas and nays, is mandatory, and then held that the journal

the senate showed that on Saturday, May 20, 1899, house bill # 760 was placed on its third reading and passage; that the roll was called and the bill passed by the requisite majority, but the court overlooked the fact that the bill which passed the senate, as affirmatively shown by the journal thereof, was a bill entitled "An act to provide for the registration of voters in cities now having or which hereafter may have 300,000 inhabitants or more; to create the office of election commissioner, provide for his appointment and define his duties; to govern elections in such cities, defining offense and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein," which was an entirely different bill from that shown to have been passed in the house by the journal thereof.

(4.) The court overlooked controlling decisions and authorities cited on pages 88 to 92 of respondent's brief, showing that under constitutions similar to ours the title of a bill is a material part of an act, and overlooked the fact that the title of the act as
185 passed by the house was entirely different from the title of the bill that was passed by the senate and entirely different from the title of the bill signed by the president of the senate, as clearly and affirmatively shown by the journals of both houses, such authorities being as follows: Cooley Con. Lim. (3rd ed.), sec. 141; Endlich on Inter. Stat., sec. 59, p. 75; Pa. R. R. Co. *v.* Riblet, 66 Pa. St., 164; Eby's Appeal, 70 Pa. St., 311; Holderman's Appeal, 104 Pa. St., 251; 23 Am. & Eng. Ency. of Law, p. 329, note 4; State *v.* Green, 36 Fla., 154; City of St. Louis *v.* Witzel, 130 Mo., 600, 616.

(5.) The court overlooked the rule of constitutional construction announced in the controlling case of Wells *vs.* Mo. Pac. R. R. Co., 110 Mo., 286, construing section 55 of article 4 of the constitution regarding extra sessions, wherein the court says, page 296, "Thus viewing the very definite provision before us, we cannot regard it otherwise than as mandatory. When the people have declared a certain form indispensable to the proper expression of their will, it is no part of our function to adjudge that form unnecessary or immaterial. On the contrary, our bounden duty — to enforce that declaration."

(6.) The court in construing the words "and not otherwise" in section 5 of article 8 of the constitution of Missouri overlooked the controlling decision in the case of Kansas City *ex rel. v.* Scarrit, 127 Mo., 642, construing the effect of those words in the organic law.

(7.) The court overlooked the contention of the respondent that section 5 of article 8 of the constitution of Missouri created a constitutional classification of cities and counties for registration purposes, 1st, into cities and counties of over 100,000 population without regard to maximum limit, in which cities and counties there must be registration; 2nd, cities of over 25,000 and
186 under 100,000 population, in which there may be registration, and, 3rd, the rest of the State in which there shall be no registration; and overlooked recognized authorities cited by respondent on pages 126 to 136, inclusive, of respondent's brief, to wit:

Sutherland on Stat. Const., sec. 14, 66, 454 notes; Wells *v.* Supervisors, 102 U. S., 635; Chandler *v.* Horn, 83 Ala., 390; Miller *v.* Wagenhousen, 18 Mo. App., 14; Grunby *v.* Webb, 44 Mo., 444; Dart *v.* Bagley, 110 Mo., 42; Rasmussen *v.* Baker, 50 Pac. R., 819; Endlich on Stat., sec. 533; Cooley Const. Lim., 78; Thomas *v.* Owens, 4 Md., 189; State *v.* Patterson, 98 N. C., 660; 4 S. E., 350; Bd. of Commissioners *v.* Coler, 96 Fed., 284; Matter of Dorry, 7 Port., 293; Rison *v.* Forr, 24 Ark., 161; People *v.* Sibertson, 55 N. Y., 50; State *v.* Goldstocker, 40 Wisc., 124; People *v.* McKinney, 32 N. Y., 374; Varney *v.* Justam, 86 Ky., 596; State *vs.* Johnston, 26 Ark., 281; Conner *v.* Walters, 8 Heisk., 504; Life Ass'n *v.* Bd. Comm., 49 Mo., 512; State *vs.* Duncan, 28 Wisc., 541; Pope *vs.* Allen, 58 Pa. St., 338; and particularly the case of *Ex parte* Joffee, 46 Mo. A., 360, which holds: "It is well settled that an affirmative enactment of a new rule implies a negative of whatever is not included or is different, and if by the language used a thing is limited to be done in a particular form or manner, it includes a negative that it shall not be done otherwise;" and the case of State *ex rel. v.* Foster, 119 Mo., 344, which holds that in construing constitutional enactments the expression of one thing is the exclusion of the other; and the controlling case of Hall *v.* Schœnecke, 128 Mo., 661, which holds that "where the aim and purpose of the law-making power would be plainly defeated if the command to do the thing in a particular manner did not imply the inhibition to do it in any other, no doubt can be entertained as to the mandatory character of the statute."

187 (8.) The court in construing section 5 of article 8 of the constitution of Missouri overlooked authorities, both text writers and decisions of supreme courts, hereinbefore quoted, holding that when the constitution defines the circumstances under which a right may be exercised or a penalty imposed the specification is an implied prohibition against legislative interference to add to the condition or to extend the penalty to other cases.

(9.) That the court overlooked the controlling case of State *ex rel. v.* Miller, 100 Mo., 439, and other cases cited on pages 132, 133, and 134 of respondent's brief, in holding that in the face of the mandatory provisions of sec. 5 of article 8 of the constitution the legislature could make a special law for registration purposes applicable to the city of St. Louis or to cities having 300,000 or more inhabitants.

(10.) The court overlooked the position of respondent that the Nesbit bill, if constitutional, expressly repealed the act of May 31, 1895, and the further contention of respondent that in order to sustain both the Cardwell amendment and the Nesbit act the Cardwell amendment and the act of May 31, 1895, must have inserted, by judicial construction, these words, to wit, "These acts shall apply to all cities over 100,000 and not exceeding 300,000 inhabitants." See respondent's brief, pages 119 to 122, inclusive.

(11.) The court misunderstood respondent when it cites him as saying this: "Respondent further contends that inasmuch as the Nesbit law professedly repeals the act entitled 'An act to create a

board of election commissioners,' approved May 31, 1895, and this act is approved June 19, 1899, and what is known as the Cardwell act in relation to cities having over 100,000 inhabitants, which purports to amend said act of 1895, and was approved also on June 19, 1899, that therefore the repeal of the act aforesaid was not accomplished." This was the contention of the relator
188 and not of the respondent. The latter made no such contention. On the contrary, the respondent contended that the Nesbit act repealed the act of May 31, 1895, and that the Cardwell amendment could not re-enact it by implication. The relator in his brief, on page 120, says: "The Nesbit law provides for registrations and elections in cities of 300,000 or more; at the same time it operates but in one city of the State, St. Louis, of which fact the court will take judicial notice; but the court will also take judicial notice that Kansas City is a city of more than 100,000 and less than 300,000 population. If it was the intention of the legislature to totally repeal and wipe out of the act of May 31, 1895, by the provisions of the Nesbit law, then it was the intention of the legislature to leave Kansas City without any law providing for registration therein. To place that interpretation on the legislative intention would be to arraign the General Assembly as guilty of a deliberate violation of section 5, article 8, of the constitution." In other words, if the act of 1895 was repealed by the Nesbit law, leaving no law in force as to cities between 100,000 and 300,000 inhabitants, the Nesbit law is confessedly unconstitutional. The court overlooked the respective contentions of relator and respondent in this behalf, but held that "so far as concerns the Nesbit act it does repeal the act of 1895." If this means that the act of 1895 was repealed as to cities covered by the Nesbit act—*i. e.*, cities of 300,000 or more inhabitants—then the court overlooked the mandatory requirements of section 5, article 8, of the constitution of Missouri.

(12.) The holding of the court that the act of 1895 was repealed "so far as concerns the Nesbit act" means, as we understand it, the court, that the act of 1895 as amended by the Cardwell act applies to cities of over 100,000 and up to 300,000 inhabitants, and that the Nesbit act applies to St. Louis. In so ruling the court
189 overlooked the fact that this is contra-y to the first section of the 14th amendment of the Constitution of the United States, plead in the return of the respondent and urged by his counsel in their brief and on oral argument, for the reasons that by section 9 of the act of May 31, 1895, judges and clerks of elections are to be appointed by the board of election commissioners and reported to the circuit courts for confirmation, with the right to any interested citizen to file objections to such judges and clerks, which objections were to be heard and determined by the court on a day fixed for that purpose, whereas by section 8 of the Nesbit act the board of election commissioners are empowered to appoint 4 judges of election and 2 clerks, without any supervision whatever and with no right to citizens of St. Louis to object thereto or to be heard thereon before any court or judicial body.

Section 31 of the act of May 31, 1895, makes provision for any

voter whose name is refused registration or who is stricken from the registration list to apply to the circuit court for reinstatement or registration, which application is to be heard summarily and determined by the court, and if found qualified the name is placed upon the registry list, and if refused the applicant is given a right of appeal to the supreme court or the court of appeals, whereas under the Nesbit act, by section 21, the board of election commissioners is made the board of appeals to hear applications for reinstatement and registration, and no appeal whatever to the courts is provided, and no citizen of St. Louis is given his day in court.

Many other differences between the Nesbit act and the act of May 31, 1895, as amended will be apparent upon a comparison of the two acts which, together with those above cited, show that the citizens
190 of the cities and counties of the State of Missouri having 300,000 or more inhabitants are, contrary to section one of the 14th amendment to the Constitution of the United States and in violation of it, denied the equal protection of the laws provided for cities having 100,000 or more inhabitants up to 300,000, and their privileges and immunities as citizens of the United States are abridged, and this, too, notwithstanding the provisions of sec. 5 art. 8, of the constitution of Missouri, providing for registration in cities and counties having a population over 100,000, and notwithstanding sec. 3, art. 4, of the constitution of Missouri, providing that "In all other cases where a general law can be made applicable, no local or special law shall be enacted, and whether a general law could have been made applicable in any case is hereby declared a judicial question, and as such shall be judicially determined without regard to any legislative assertion on that subject."

Wherefore, for the reasons above stated and other objections apparent upon the face of the opinion herein, respondent respectfully asks this court for a rehearing of the case.

B. SCHNURMACHER,
City Counselor.
GEO. D. REYNOLDS,
NOBLE & SHIELDS,
MORTON JOURDAN,
For Respondents.

And afterwards, to wit, on the 27th day of March, 1900, the further following proceedings were had in said cause, viz:

STATE *ex Rel.* JAS. MCCAFFERY, Rel.,
v.
I. M. MASON, Auditor, Resp.

Now, at this day, the court, having fully considered and understood the motion heretofore filed for a rehearing herein, doth order that said motion be, and the same is hereby, denied.

191 And afterwards, to wit, on the 31st day of March, 1900, the further following proceedings were had in said cause, viz:

STATE *ex Rel.* JAS. MCCAFFERY ET AL., Relators,
vs.
I. M. MASON, Auditor, Respondent.

Now, at this day, there is presented to the Honorable James B. Gantt, chief justice of the supreme court of the State of Missouri, in chambers, a writ of error to the Supreme Court of the United States; a citation, directed to said relators, citing and admonishing them to appear at a Supreme Court of the United States on the 30th day of April, 1900; an assignment of errors and a bond in the sum of five thousand dollars; which said writ of error is allowed, said citation signed, and said bond approved, ordered filed, and made a part of the record herein.

Which said assignment of errors are in words and figures as follows, to wit:

In the Supreme Court of the United States, October Term, 1899.

ISAAC M. MASON, Auditor of the City of St. Louis, Missouri, Plaintiff in Error,
vs.
THE STATE OF MISSOURI *ex Rel.* JAMES McCaffery, Lawrence D. Kingsland, and George J. Kobush, Defendants in Error.
} Error to the Supreme Court of the State of Missouri.

Assignment of Errors and Prayer for Reversal.

Now comes Isaac M. Mason, plaintiff in error in the above-entitled cause, and prays the court to reverse the judgment rendered by the honorable the supreme court of the State of Missouri,
192 *wherein* the cause lately pending in said last-named court, — The State of Missouri *ex rel.* Jas. McCaffery, Lawrence D. Kingsland, and George J. Kobush were relators and the said plaintiff in error, Isaac M. Mason, auditor of the city of St. Louis, Missouri, was respondent, on account of the many and manifest errors committed by said court, to the prejudice of the plaintiff in error, as will appear by an inspection of the record thereof, and especially for the following reasons which are hereby set out as the—

Assignment of Errors.

I.

The act of the General Assembly of the State of Missouri entitled "An act to provide for the registration of voters in cities now having or which may hereafter have 300,000 inhabitants or more; to provide for the creation of a board of election commissioners, provide for its appointment, and define its duties; to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elec-

tions therein, and to repeal all acts and parts of acts in conflict or inconsistent herewith," approved June 19th, 1899, is in conflict with the 1st section of the 14th amendment to the Constitution of the United States, in that it abridges the privileges and immunities of citizens of the United States and denies to citizens of the United States within the jurisdiction of and citizens of the State of Missouri *of* the equal protection of the laws.

II.

Said act of June 19th, 1899, denies to citizens of the United States who are inhabitants and citizens of the city of St. Louis and within the jurisdiction of the State of Missouri the equal protection of the laws.

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III.

The decision of the supreme court of the State of Missouri in the above-entitled case in sustaining said act of June 19th, 1899, as a valid and constitutional enactment is a denial to the citizens of St. Louis and of this plaintiff in error, who are within the jurisdiction of the State of Missouri, of the equal protection of the laws and of their privileges and immunities as citizens of the United States.

IV.

The said supreme court of the State of Missouri erred in refusing to hold that the bill No. 760, which passed the senate of Missouri by a call of yeas and nays, as required by the constitution of the State of Missouri, was a different bill from that which passed the house of representatives, and erred in refusing to hold that the bill signed by the president of the said senate, according to the senate journal, was a different bill from that which passed the house, to wit, a bill under the following title, to wit: "An act to provide for the registration of voters in cities now having or which hereafter may have 300,000 inhabitants or more, to create the office of election commissioner, provide for his appointment and define his duties, to govern elections in such cities, defining offenses and providing penalties therefor, and to prescribe rules and regulations governing registration and elections therein."

V.

The court erred in holding that in the absence of a protest pointing out in what particulars the constitution of the State of Missouri was violated during the passage of the bill, it would be presumed that the legislature was not remiss in its duties in that regard, although the journals may have failed affirmatively to record the performance of such duty, and further erred in commenting on the protest which was filed to the act as a local and not a general

194 act, as if the members of the senate who filed this protest, having based it on this ground alone, were precluded or this respondent was precluded from making the points urged in said court against the law in the face of the fact that the members of the

senate had no opportunity to protest against the signing of a bill under the title of the bill passed by the house, and in face of the fact that it appears affirmatively by the senate journal that the only title ever read or heard of in the senate was the title as hereinbefore set forth.

VI.

The court erred in not holding that the senate having no notice of the change in title of the bill, the members of the senate could not protest against the signature thereof by its president on the ground that the title had been changed or was other than that which, according to its own journal, the bill appears to have.

VII.

The court erred in holding that section 31 of article IV of the constitution of the State of Missouri, providing for taking the count on the final passage of a bill by yeas and nays, was mandatory, and then holding that the journal of the senate showed that the bill *which* was passed in accordance with that provision of the constitution, when it was affirmatively shown by the senate journal that the bill passed by the senate was different from that passed by the house.

VIII.

The court erred in holding that the title to the bill is an immaterial part of an act under the constitution of the State of Missouri, and that the fact that the title of the bill as passed by the house was entirely different from the title of the bill that was passed
195 by the senate and signed by the president of the senate, as affirmatively shown by the journals of both houses, was not contrary to the constitution of the State of Missouri.

IX.

The court erred in refusing to hold that section 9 of article VIII of the constitution of the State of Missouri prescribed the methods under which registration laws could be passed in the State of Missouri as being mandatory and directing the only method by which said registration laws could be passed.

X.

The court erred in refusing to hold that the limitations of section 5 of article VIII of the constitution of the State of Missouri limited the legislature to passing the general act for the registration of voters in all cities having over 100,000 inhabitants.

XI.

The court erred in refusing to hold that section 5 of article VIII of the constitution of the State of Missouri created a constitutional classification in cities and counties for registration purposes, 1st, into cities and counties of over 100,000 population without regard to

the maximum limit in which cities and counties there must b registration; 2nd, cities of over 25,000 and under 100,000 populatio in which there may be registration; and 3rd, the rest of the State i which there shall be no registration, and that said section was mandatory rule controlling the action of the legislature and requir ing it to pass general laws on the subject of registration applicabl to all cities in the State containing over 100,000 inhabitants.

XII.

The court erred in refusing to hold that article VIII, section 5, o the constitution of the State of Missouri was an affirmative enact ment of a new rule, which implied a negative of whatever 196 was not included or is different, and that by the language used therein the thing was limited to be done in a particula form or manner, and included a negative that it should not be don otherwise.

XIII.

The court erred in refusing to hold that in construing section of article VIII of the constitution of the State of Missouri that whe the constitution defined the circumstances under which a right ma be exercised or penalty imposed the specification is an implied pro hibition against legislative interference to add to the condition o to extend the penalty to other cases.

XIV.

The court erred in holding that in the face of section 5 of articl VIII of the constitution of Missouri the legislature could mak special laws for registration purposes applicable to the city of S Louis, having 300,000 or more inhabitants alone.

XV.

The court erred in not holding that the "Nesbit bill," which th court held to be constitutional, expressly repealed the act of Ma 31st, 1895, and left all cities under 300,000 inhabitants in the Stat of Missouri without any registration act whatever, in the face of th mandatory requirements of section 5 of article VIII of the sai constitution.

XVI.

The court erred in holding that the "Nesbit bill" repealed th act of May 31, 1895, so far as regards cities covered by said "Nesb bill" and having more than 300,000 inhabitants, leaving the act o May 31, 1895, in force as to cities having 100,000 inhabitants o more up to 300,000 inhabitants, thereby creating a different rule o registration as to some of the cities in the State of Missouri havin over 100,000 from the rule of registration prescribed for the city o St. Louis.

XVII.

The court erred in not holding that if the act of May 31st, 1895, was repealed, then the Nesbit law, leaving no law in force as to cities between 100,000 and 300,000, was unconstitutional.

XVIII.

The court erred in holding that the act of May 31st, 1895, was repealed so far as concerns the "Nesbit" act, thereby holding that said act of May 31st, 1895, as amended by the Cardwell act, applies to cities of over 100,000 and up to 300,000 inhabitants, in face of the fact that this ruling is contrary to the first section of the 14th amendment to the Constitution of the United States, plead in the returns of the respondent and urged by his counsel in their brief and on oral argument, and again presented to the court on a motion for rehearing herein, for the reason that by section 9, by the act of May 31st, 1895, judges and clerks of election are to be appointed by a board of election commissioners and reported to the circuit court of the State for confirmation, with the right to any interested citizen to file objection to such judges and clerks, which objections were to be heard and determined by the court on a day fixed for that purpose, whereas by section 8 of the Nesbit act the board of election commissioners are empowered to appoint four judges of election and two clerks without any supervisions whatever, and with no right to the citizens of St. Louis to object thereto or to be heard thereon before any court or judicial body; and, further, that section 31 of the act of May 31st, 1895, makes provision for any voter whose name is refused registration, or who is stricken from the registration list, to apply to the circuit court for reinstatement or registration, which application is to be heard summarily and determined by the court, and, if found qualified, the name is placed upon the registry list,
198 and if refused the applicant is given the right of appeal to the supreme court or the court of appeals of the State, whereas under the Nesbit act, by section 21, the board of election commissioners are made the board of appeal to hear applications for reinstatement and registration, and no appeal whatever to the courts is provided, and every citizen of St. Louis is denied his day in court, all of which is contrary to the said 14th amendment to the Constitution of the United States; and, further, that other differences between the said Nesbit act and the act of May 31st, 1895, — apparent upon comparison of the two acts, which show that the citizens of cities and counties of the State of Missouri having 300,000 or more inhabitants are denied equal protection by the laws provided for cities having 100,000 up to 300,000, and their privileges and immunities as citizens of the United States are abridged, notwithstanding the provision of section 5 of article VIII of the constitution of Missouri providing for the registration in cities and counties having a population of over 100,000, and notwithstanding section 3 of article IV of the constitution of Missouri, providing that in all other cases where general laws can be made applicable

no local or special law shall be enacted, and whether the general law could have been made applicable in any case is declared to be a judicial question, and as such shall be judicially determined without regard to any legislative assertion on that subject.

XIX.

The court erred in holding that in the passage of the Nesbit bill through the two houses of the General Assembly of the State of Missouri sections 25, 26, 27, 28, 32, and 38 of article IV of the constitution of the State of Missouri had not been violated, and in holding that said sections are not mandatory.

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XX.

The court erred in holding that the said act of June 19th, 1899, was not in violation of section 5 of article VIII of the constitution of Missouri.

XXI.

The court erred in holding that said act of June 19th, 1899, was not in violation of sections 16 and 53 of article IX of the constitution of Missouri.

XXII.

The court erred in holding the said act of June 19th, 1899, to be a constitutional law under section 5 of article VIII and section 53 of article IX of the constitution of Missouri.

XXIII.

The act of June 19th, 1899, is in violation of the foregoing cited provisions of the constitution of Missouri and of the Constitution of the United States.

XXIV.

The court erred in overruling a motion for a rehearing filed by plaintiff in error, which should have been sustained for the reasons in said motion for rehearing set out.

All of which is respectfully submitted.

B. SCHNURMACHER,
City Counsellor.
GEO. D. REYNOLDS,
NOBLE & SHIELDS,
MORTON JOURDAN,
Attorneys for Plaintiff in Error.

And which said bond is in words and figures as follows, to wit:

200 Know all men by these presents that we, Isaac M. Mason, as principal, and Henry Zeigenhein and Chris. Schawacker, as sureties, are held and firmly bound unto James McCaffery, Lawrence D. Kingsland, and George J. Kobush in the full and just sum of five thousand dollars, to be paid to the said James McCaffery, Lawrence D. Kingsland, and George J. Kobush; to which payment,

well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 31st day of March, in the year of our Lord one thousand nine hundred.

Whereas lately, at the October term, A. D. 1899, of the supreme court of Missouri, in a suit depending in said court between the State of Missouri *ex rel.* James McCaffery, Lawrence D. Kingsland, and George J. Kobush, relators, and Isaac M. Mason, auditor of the city of St. Louis, Missouri, defendant, judgement was rendered against the said defendants, and the said defendant having obtained a writ of error of the said court to reverse the judgment in the aforesaid suit, and a citation directed to the said relators, citing and admonishing them to be and appear at a Supreme Court of the United States, to be held at Washington, D. C., not exceeding thirty days from and after the date of said citation:

Now, the condition of the above obligation is such that if the said defendant shall prosecute said writ to effect and answer all damages and costs if he fail to make good his plea, then the above obligation to be void; else to remain in full force and virtue.

ISAAC M. MASON. [SEAL.]
H. Y. ZIEGENHEIN. [SEAL.]
CHRIS. J. SCAWACKER. [SEAL.]

Sealed and delivered in presence of—

A. F. LANGE.

Approved by—

JAS. B. GANTT,
Chief Justice.

201 UNITED STATES OF AMERICA, } *sct:*
Western District of Missouri, }

STATE OF MISSOURI, } *ss:*
City of St. Louis, }

Before me, A. F. Lange, notary public for the city of St. Louis, Missouri, personally appeared Henry Ziegenhein, to me well known, who upon oath states that he is worth over and above his indebtedness the sum of twenty-five thousand dollars, and that he owns real property to that amount, subject to execution, in the city of St. Louis, Mo.

HENRY ZIEGENHEIN.

Subscribed and sworn to before me this 2nd day of April, 1900.

[L. S.] ALBERT F. LANGE,
Notary Public, City of St. Louis, Mo.

My commission expires April 14, 1903.

UNITED STATES OF AMERICA, } *sct:*
Western District of Missouri, }

STATE OF MISSOURI, } *ss:*
City of St. Louis, }

Before me, A. F. Lange, notary public for the city of St. Louis, Mo., personally appeared Chris. Schawacker, to me well known, who upon oath states that he is worth over and above his indebtedness the sum of fifteen thousand dollars, and that he owns real property to that amount, subject to execution, in the city of St. Louis, Mo.

CHRIS. SCHAWACKER.

Subscribed and sworn to before me this 2nd day of April, 1900.

[L. S.] ALBERT F. LANGE,
Notary Public, City of St. Louis, Mo.

My commission expires April 14, 1903.

202 UNITED STATES OF AMERICA, } *sct:*
Western District of Missouri, }

STATE OF MISSOURI, } *ss:*
City of St. Louis, }

I do hereby certify that the parties subscribing the within bond are, respectively, over the age of twenty-one years and are competent to contract, and that their signatures to said bond are genuine; I further certify that said bond is good and sufficient.

Witness my hand and seal this 2nd day of April, 1900.

ALBERT F. LANGE,
Notary Public, City of St. Louis, Mo.

My commission expires April 14, 1903.

Here follows three ten-cent revenue stamps.

STATE OF MISSOURI, *sct:*

I, John R. Green, clerk of the supreme court of the State of Missouri, certify that the foregoing is a full, true, and complete transcript of the record and proceedings had and made in the supreme court of the State of Missouri in the cause wherein The State of Missouri at the relation of James McCaffery, Lawrence D. Kingsland, and George J. Kobush were relators and Isaac M. Mason, auditor of the city of St. Louis, was respondent, as fully as the same remain of record and on file in my office.

Seal of the Supreme Court of Missouri.

In testimony whereof I have hereunto set my hand and the seal of the supreme court of the State of Missouri. Done at the city of Jefferson this 13th day of April, 1900.

JNO. R. GREEN, *Clerk.*

Endorsed on cover: File No., 17,728. Missouri supreme court. Term No., 614. Isaac M. Mason, auditor of the city of St. Louis, Missouri, plaintiff in error, *vs.* The State of Missouri *ex rel.* James McCaffery, Lawrence D. Kingsland, and George J. Kobush, relators. Filed April 23, 1900.